



OHMVR COMMISSION MEETING Victorville, CA

February 10, 2017

STAFF REPORT: Legislative Update
STAFF: Liz McGuirk, Chief Deputy Director
SUBJECT: January 2017 California and Federal Legislation Summary Report

Summary

This report provides summary excerpts and status of bills that may affect the Off-Highway Motor Vehicle Recreation (OHMVR) Program. Information contained in this report is accurate as of January 20, 2017.

2016 CALIFORNIA LEGISLATION UPDATE

Senate Bill 1 (Beall) Transportation funding.

Note: This summary will only address Section 21 of this bill which amends Revenue and Taxation Code §8352.6 regarding the Off-Highway Vehicle Trust Fund.

Summary: This bill would redirect funding from the Motor Vehicle Fuel Account (which has been diverted from the Off-Highway Vehicle Trust Fund since 2012) to the Highway Users Tax Account. The purpose of this bill is to address the state's deferred maintenance on roads and highways and also to fund the state's transportation infrastructure.

Status: Introduced 12-5-16

Senate Bill 65 (Hill) Vehicles: alcohol and marijuana: penalties

Summary: This bill would modify the penalty for operating a vehicle or vessel while drinking alcohol, or smoking or ingesting marijuana, as either an infraction or misdemeanor. This bill would prohibit alcohol consumption (open-container) while operating a vessel. Additionally, this bill would authorize a court to order a defendant to attend alcohol education and counseling classes.

Status: Introduced 12-29-16

Assembly Bill 1 (Frazier) Transportation funding.

Note: This summary will only address Section 21 of this bill which amends Revenue and Taxation Code §8352.6 regarding the Off-Highway Vehicle Trust Fund.

Summary: This bill is similar to SB 1 (Beall). AB 1 would redirect funding from the Motor Vehicle Fuel Account (which has been diverted from the Off-Highway Vehicle Trust Fund since 2012) to the Highway Users Tax Account. The purpose of this bill is to address the state's deferred maintenance on roads and highways and also to fund the state's transportation infrastructure.

Status: Introduced 12-5-16

2017 - 2018 115th US CONGRESS FEDERAL LEGISLATION UPDATE

S. 32 (Feinstein): California Desert Conservation and Recreation Act of 2017

Summary: This bill is an attempt to achieve consensus on the various uses of desert land. This is the result of years of engagement with a range of stakeholders including environmental groups, local and state government officials, off-highway recreation enthusiasts, cattle ranchers, mining interests, the Department of Defense, wind and solar energy companies, California's public utility companies and many others. The legislation also directs the Secretary of the Interior to complete several studies that would include stakeholders and state and local government input.

The bill's key off-highway vehicle provisions:

Designate five existing Bureau of Land Management Off-Highway Vehicle areas (covering approximately 142,000 acres of California desert) as permanent Off-Highway Vehicle recreation areas, providing off-highway enthusiasts certainty that these uses of the desert will be protected in a manner similar to conservation areas.

Status: Introduced 1/5/17 Referred to Committee on Energy and Natural Resources

H.R. 289 (LaMalfa): Guides and Outfitters Act

Summary: This bill would amend the Federal Lands Recreation Enhancement Act to allow the Secretary of the Interior and the Secretary of Agriculture (USDA) to issue special recreation permits and fees for off-highway vehicle use on certain federal recreational lands, as defined.

Status: Introduced 1/4/17 Double referred: Committee on Natural Resources and Committee on Agriculture

H.R. 350: (McHenry): Recognizing the Protection of Motorsports Act of 2017 (RPM Act)

Summary: This bill would modify the Clean Air Act to provide an exemption for vehicles used solely for competition.

Status: 1/6/17 Referred to Committee on Energy and Commerce

Commission Action

For information only

Attachments

- Senate Bill 1 (Beall) Transportation funding
- Senate Bill 65 (Hill) Vehicles: alcohol and marijuana: penalties
- Assembly Bill 1 (Frazier) Transportation funding
- S. 32 (Feinstein): California Desert Conservation and Recreation Act of 2017
- H.R. 350: (McHenry): Recognizing the Protection of Motorsports Act of 2017 (RPM Act)
- H.R. 289 (LaMalfa): Guides and Outfitters Act

Introduced by Senator Beall
(Coauthors: Senators Dodd, Hertzberg, Hill, McGuire, Mendoza,
Monning, Wieckowski, and Wiener)

December 5, 2016

An act to amend Sections 13975, 14500, 14526.5, and 16965 of, to add Sections 14033, 14110, 14526.7, and 16321 to, to add Part 5.1 (commencing with Section 14460) to Division 3 of Title 2 of, and to repeal Section 14534.1 of, the Government Code, to amend Section 39719 of the Health and Safety Code, to amend Section 21080.37 of, and to add Division 13.6 (commencing with Section 21200) to, the Public Resources Code, to amend Section 99312.1 of the Public Utilities Code, to amend Sections 6051.8, 6201.8, 7360, 8352.4, 8352.5, 8352.6, and 60050 of the Revenue and Taxation Code, to amend Sections 183.1, 2192, and 2192.2 of, to add Sections 820.1, 2103.1 and 2192.4 to, and to add Chapter 2 (commencing with Section 2030) to Division 3 of, the Streets and Highways Code, and to add Sections 9250.3, 9250.6, and 9400.5 to the Vehicle Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1, as introduced, Beall. Transportation funding.

(1) Existing law provides various sources of funding for transportation purposes, including funding for the state highway system and the local street and road system. These funding sources include, among others, fuel excise taxes, commercial vehicle weight fees, local transactions and use taxes, and federal funds. Existing law imposes certain registration fees on vehicles, with revenues from these fees deposited in the Motor Vehicle Account and used to fund the Department of Motor

Vehicles and the Department of the California Highway Patrol. Existing law provides for the monthly transfer of excess balances in the Motor Vehicle Account to the State Highway Account.

This bill would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria, consistent with a specified asset management plan, to ensure efficient use of certain funds available for the program. The bill would provide for the deposit of various funds for the program in the Road Maintenance and Rehabilitation Account, which the bill would create in the State Transportation Fund, including revenues attributable to a \$0.12 per gallon increase, phased in over 3 years, in the motor vehicle fuel (gasoline) tax imposed by the bill with an inflation adjustment, as provided, an increase of \$38 in the annual vehicle registration fee with an inflation adjustment, as provided, a new \$100 annual vehicle registration fee with an inflation adjustment, as provided, applicable to zero-emission motor vehicles, as defined, and certain miscellaneous revenues described in (7) below that are not restricted as to expenditure by Article XIX of the California Constitution.

This bill would annually set aside \$200,000,000 of the funds available for the program to fund road maintenance and rehabilitation purposes in counties that have sought and received voter approval of taxes or that have imposed fees, including uniform developer fees, as defined, which taxes or fees are dedicated solely to transportation improvements. These funds would be continuously appropriated for allocation pursuant to guidelines to be developed by the California Transportation Commission in consultation with local agencies. The bill would require \$80,000,000 of the funds available for the program to be annually transferred to the State Highway Account for expenditure on the Active Transportation Program. The bill would require \$30,000,000 of the funds available for the program in each of 4 fiscal years beginning in 2017–18 to be transferred to the Advance Mitigation Fund created by the bill pursuant to (12) below. The bill would continuously appropriate \$2,000,000 annually of the funds available for the program to the California State University for the purpose of conducting transportation research and transportation-related workforce education, training, and development. The bill would require the remaining funds available for the program to be allocated 50% for maintenance of the state highway system or to the state highway operation and protection program and

50% to cities and counties pursuant to a specified formula. The bill would impose various requirements on the department and agencies receiving these funds. The bill would authorize a city or county to spend its apportionment of funds under the program on transportation priorities other than those allowable pursuant to the program if the city's or county's average Pavement Condition Index meets or exceeds 80.

The bill would also require the department to annually identify savings achieved through efficiencies implemented at the department and to propose, from the identified savings, an appropriation to be included in the annual Budget Act of up to \$70,000,000 from the State Highway Account for expenditure on the Active Transportation Program.

(2) Existing law establishes in state government the Transportation Agency, which includes various departments and state entities, including the California Transportation Commission. Existing law vests the California Transportation Commission with specified powers, duties, and functions relative to transportation matters. Existing law requires the commission to retain independent authority to perform the duties and functions prescribed to it under any provision of law.

This bill would exclude the California Transportation Commission from the Transportation Agency, establish it as an entity in state government, and require it to act in an independent oversight role. The bill would also make conforming changes.

(3) Existing law creates various state agencies, including the Department of Transportation, the High-Speed Rail Authority, the Department of the California Highway Patrol, the Department of Motor Vehicles, and the State Air Resources Board, with specified powers and duties. Existing law provides for the allocation of state transportation funds to various transportation purposes.

This bill would create the Office of the Transportation Inspector General in state government, as an independent office that would not be a subdivision of any other government entity, to ensure that all of the above-referenced state agencies and all other state agencies expending state transportation funds are operating efficiently, effectively, and in compliance with federal and state laws. The bill would provide for the Governor to appoint the Transportation Inspector General for a 6-year term, subject to confirmation by the Senate, and would provide that the Transportation Inspector General may not be removed from office during the term except for good cause. The bill would specify the duties and responsibilities of the Transportation

Inspector General and would require an annual report to the Legislature and Governor.

This bill would require the department to update the Highway Design Manual to incorporate the “complete streets” design concept by January 1, 2018. The bill would require the department to develop a plan by January 1, 2020, to increase by 100% the dollar value of contracts awarded to small businesses, disadvantaged business enterprises, and disabled veteran business enterprises.

(4) Existing law provides for loans of revenues from various transportation funds and accounts to the General Fund, with various repayment dates specified.

This bill would require the Department of Finance, on or before March 1, 2017, to compute the amount of outstanding loans made from specified transportation funds. The bill would require the Department of Transportation to prepare a loan repayment schedule and would require the outstanding loans to be repaid pursuant to that schedule, as prescribed. The bill would appropriate funds for that purpose from the Budget Stabilization Account. The bill would require the repaid funds to be transferred, pursuant to a specified formula, to cities and counties and to the department for maintenance of the state highway system and for purposes of the state highway operation and protection program.

(5) The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) created the Trade Corridors Improvement Fund and provided for allocation by the California Transportation Commission of \$2 billion in bond funds for infrastructure improvements on highway and rail corridors that have a high volume of freight movement and for specified categories of projects eligible to receive these funds. Existing law continues the Trade Corridors Improvement Fund in existence in order to receive revenues from sources other than the bond act for these purposes.

This bill would deposit the revenues attributable to a \$0.20 per gallon increase in the diesel fuel excise tax imposed by the bill into the Trade Corridors Improvement Fund. The bill would require revenues apportioned to the state from the national highway freight program established by the federal Fixing America’s Surface Transportation Act to be allocated for trade corridor improvement projects approved pursuant to these provisions.

Existing law requires the commission, in determining projects eligible for funding, to consult various state freight and regional infrastructure and goods movement plans and the statewide port master plan.

This bill would revise the list of plans to be consulted by the commission in prioritizing projects for funding. The bill would also expand eligible projects to include, among others, rail landside access improvements, landside freight access improvements to airports, and certain capital and operational improvements. The bill would identify specific amounts to be allocated from available federal funds to certain categories of projects.

(6) Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund. Existing law continuously appropriates 10% of the annual proceeds of the fund to the Transit and Intercity Rail Capital Program and 5% of the annual proceeds of the fund to the Low Carbon Transit Operations Program.

This bill would, beginning in the 2017-18 fiscal year, instead continuously appropriate 20% of those annual proceeds to the Transit and Intercity Rail Capital Program and 10% of those annual proceeds to the Low Carbon Transit Operations Program, thereby making an appropriation.

(7) Article XIX of the California Constitution restricts the expenditure of revenues from taxes imposed by the state on fuels used in motor vehicles upon public streets and highways to street and highway and certain mass transit purposes. Existing law requires certain miscellaneous revenues deposited in the State Highway Account that are not restricted as to expenditure by Article XIX of the California Constitution to be transferred to the Transportation Debt Service Fund in the State Transportation Fund, as specified, and requires the Controller to transfer from the fund to the General Fund an amount of those revenues necessary to offset the current year debt service made from the General Fund on general obligation transportation bonds issued pursuant to Proposition 116 of 1990.

This bill would delete the transfer of these miscellaneous revenues to the Transportation Debt Service Fund, thereby eliminating the offsetting transfer to the General Fund for debt service on general obligation transportation bonds issued pursuant to Proposition 116 of 1990. The bill, subject to a specified exception, would instead require the miscellaneous revenues to be retained in the State Highway Account and to be deposited in the Road Maintenance and Rehabilitation Account.

(8) Article XIX of the California Constitution requires gasoline excise tax revenues from motor vehicles traveling upon public streets and highways to be deposited in the Highway Users Tax Account, for allocation to city, county, and state transportation purposes. Existing law generally provides for statutory allocation of gasoline excise tax revenues attributable to other modes of transportation, including aviation, boats, agricultural vehicles, and off-highway vehicles, to particular accounts and funds for expenditure on purposes associated with those other modes, except that a specified portion of these gasoline excise tax revenues is deposited in the General Fund. Expenditure of the gasoline excise tax revenues attributable to those other modes is not restricted by Article XIX of the California Constitution.

This bill, commencing July 1, 2017, would instead transfer to the Highway Users Tax Account for allocation to state and local transportation purposes under a specified formula the portion of gasoline excise tax revenues currently being deposited in the General Fund that are attributable to boats, agricultural vehicles, and off-highway vehicles. Because that account is continuously appropriated, the bill would make an appropriation. The bill, commencing July 1, 2017, would transfer, to the Road Maintenance and Rehabilitation Account, the portion of gasoline excise tax revenues attributable to these uses that would be derived from increases in the gasoline excise tax rate described in (1) above.

(9) Existing law, as of July 1, 2011, increases the sales and use tax on diesel and decreases the excise tax, as provided. Existing law requires the State Board of Equalization to annually modify both the gasoline and diesel excise tax rates on a going-forward basis so that the various changes in the taxes imposed on gasoline and diesel are revenue neutral.

This bill would eliminate the annual rate adjustment to maintain revenue neutrality for the gasoline and diesel excise tax rates and would reimpose the higher gasoline excise tax rate that was in effect on July 1, 2010, in addition to the increase in the rate described in (1) above.

Existing law, beyond the sales and use tax rate generally applicable, imposes an additional sales and use tax on diesel fuel at the rate of 1.75%, subject to certain exemptions, and provides for the net revenues collected from the additional tax to be transferred to the Public Transportation Account. Existing law continuously appropriates these and other revenues in the account to the Controller for allocation by formula to transportation agencies for public transit purposes under the State Transit Assistance Program. Existing law provides for

appropriation of other revenues in the account to the Department of Transportation for various other transportation purposes, including intercity rail purposes.

This bill would increase the additional sales and use tax rate on diesel fuel by an additional 4%. The bill would restrict expenditures of revenues attributable to the 3.5% rate increase to transit capital purposes and certain transit services and would require a recipient transit agency to comply with certain requirements, including submitting a list of proposed projects to the Department of Transportation, as a condition of receiving a portion of these funds under the State Transit Assistance Program. The bill would require an existing required audit of transit operator finances to verify that these new revenues have been expended in conformance with these specific restrictions and all other generally applicable requirements. By increasing the amount of revenues in the Public Transportation Account that are continuously appropriated, the bill would thereby make an appropriation. The bill would require the revenues attributable to the remaining 0.5% rate increase to be allocated, upon appropriation, to the department for intercity rail and commuter rail purposes.

This bill would, beginning July 1, 2020, and every 3rd year thereafter, require the State Board of Equalization to recompute the gasoline and diesel excise tax rates and the additional sales and use tax rate on diesel fuel based upon the percentage change in the California Consumer Price Index transmitted to the board by the Department of Finance, as prescribed.

(10) Existing law requires the Department of Transportation to prepare a state highway operation and protection program every other year for the expenditure of transportation capital improvement funds for projects that are necessary to preserve and protect the state highway system, excluding projects that add new traffic lanes. The program is required to be based on an asset management plan, as specified. Existing law requires the department to specify, for each project in the program the capital and support budget and projected delivery date for various components of the project. Existing law provides for the California Transportation Commission to review and adopt the program, and authorizes the commission to decline and adopt the program if it determines that the program is not sufficiently consistent with the asset management plan.

This bill would require the commission, as part of its review of the program, to hold at least one hearing in northern California and one

hearing in southern California regarding the proposed program. The bill would require the department to submit any change to a programmed project as an amendment to the commission for its approval.

This bill, on and after August 1, 2017, would also require the commission to make an allocation of all capital and support costs for each project in the program, and would require the department to submit a supplemental project allocation request to the commission for each project that experiences cost increases above the amounts in its allocation. The bill would require the commission to establish guidelines to provide exceptions to the requirement for a supplemental project allocation requirement that the commission determines are necessary to ensure that projects are not unnecessarily delayed.

(11) Existing law imposes weight fees on the registration of commercial motor vehicles and provides for the deposit of net weight fee revenues into the State Highway Account. Existing law provides for the transfer of certain weight fee revenues from the State Highway Account to the Transportation Debt Service Fund to reimburse the General Fund for payment of debt service on general obligation bonds issued for transportation purposes. Existing law also provides for the transfer of certain weight fee revenues to the Transportation Bond Direct Payment Account for direct payment of debt service on designated bonds, which are defined to be certain transportation general obligation bonds issued pursuant to Proposition 1B of 2006. Existing law also provides for loans of weight fee revenues to the General Fund to the extent the revenues are not needed for bond debt service purposes, with the loans to be repaid when the revenues are later needed for those purposes, as specified.

This bill, notwithstanding these provisions or any other law, would only authorize specified percentages of weight fee revenues to be transferred from the State Highway Account to the Transportation Debt Service Fund, the Transportation Bond Direct Payment Account, or any other fund or account for the purpose of payment of the debt service on transportation general obligation bonds in accordance with a prescribed schedule, with no more than 50% of weight fee revenues to be used for debt service purposes beginning with the 2021–22 fiscal year. The bill would require the California Transportation Commission, by January 1, 2018, to recommend a course of action to the Legislature and Governor that would retain the remaining 50% share of weight fee revenues in the State Highway Account or provide for the transfer of those revenues to the Road Maintenance and Rehabilitation Account.

The bill would also prohibit loans of weight fee revenues to the General Fund.

(12) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA, until January 1, 2020, exempts a project or an activity to repair, maintain, or make minor alterations to an existing roadway, as defined, other than a state roadway, if the project or activity is carried out by a city or county with a population of less than 100,000 persons to improve public safety and meets other specified requirements.

This bill would extend the above-referenced exemption indefinitely and delete the limitation of the exemption to projects or activities in cities and counties with a population of less than 100,000 persons. The bill would also expand the exemption to include state roadways.

This bill would also establish the Advance Mitigation Program in the Department of Transportation. The bill would authorize the department to undertake specified mitigation measures in advance of construction of planned transportation improvements. The bill would require the department to establish a steering committee to advise the department on advance mitigation measures and related matters. The bill would create the Advance Mitigation Fund as a continuously appropriated revolving fund, to be funded initially from the Road Maintenance and Rehabilitation Program pursuant to (1) above. The bill would provide for reimbursement of the revolving fund at the time a planned transportation improvement benefiting from advance mitigation is constructed.

(13) Existing federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery program, under which the participating states assume certain responsibilities for environmental review and clearance of transportation projects that would otherwise be the responsibility of the federal government. Existing law, until January 1, 2017, when these provisions

are repealed, provides that the State of California consents to the jurisdiction of the federal courts with regard to the compliance, discharge, or enforcement of the responsibilities the Department of Transportation assumed as a participant in this program.

This bill would reenact these provisions.

(14) This bill would provide that the fuel tax increases imposed by the bill would be effective on July 1, 2017. The bill would provide that the vehicle fee increases imposed by the bill would be effective on October 1, 2017.

(15) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Over the next 10 years, the state faces a \$59 billion shortfall
4 to adequately maintain the existing state highway system in order
5 to keep it in a basic state of good repair.

6 (b) Similarly, cities and counties face a \$78 billion shortfall
7 over the next decade to adequately maintain the existing network
8 of local streets and roads.

9 (c) Statewide taxes and fees dedicated to the maintenance of
10 the system have not been increased in more than 20 years, with
11 those revenues losing more than 55 percent of their purchasing
12 power, while costs to maintain the system have steadily increased
13 and much of the underlying infrastructure has aged past its expected
14 useful life.

15 (d) California motorists are spending \$17 billion annually in
16 extra maintenance and car repair bills, which is more than \$700
17 per driver, due to the state's poorly maintained roads.

18 (e) Failing to act now to address this growing problem means
19 that more drastic measures will be required to maintain our system
20 in the future, essentially passing the burden on to future generations
21 instead of doing our job today.

22 (f) A funding program will help address a portion of the
23 maintenance backlog on the state's road system and will stop the
24 growth of the problem.

1 (g) Modestly increasing various fees can spread the cost of road
2 repairs broadly to all users and beneficiaries of the road network
3 without overburdening any one group.

4 (h) Improving the condition of the state's road system will have
5 a positive impact on the economy as it lowers the transportation
6 costs of doing business, reduces congestion impacts for employees,
7 and protects property values in the state.

8 (i) The federal government estimates that increased spending
9 on infrastructure creates more than 13,000 jobs per \$1 billion spent.

10 (j) Well-maintained roads benefit all users, not just drivers, as
11 roads are used for all modes of transport, whether motor vehicles,
12 transit, bicycles, or pedestrians.

13 (k) Well-maintained roads additionally provide significant health
14 benefits and prevent injuries and death due to crashes caused by
15 poorly maintained infrastructure.

16 (l) A comprehensive, reasonable transportation funding package
17 will do all of the following:

18 (1) Ensure these transportation needs are addressed.

19 (2) Fairly distribute the economic impact of increased funding.

20 (3) Restore the gas tax rate previously reduced by the State
21 Board of Equalization pursuant to the gas tax swap.

22 (4) Direct increased revenue to the state's highest transportation
23 needs.

24 SEC. 2. Section 13975 of the Government Code is amended
25 to read:

26 13975. There is in the state government the Transportation
27 Agency. The agency consists of the Department of the California
28 Highway Patrol, ~~the California Transportation Commission~~, the
29 Department of Motor Vehicles, the Department of Transportation,
30 the High-Speed Rail Authority, and the Board of Pilot
31 Commissioners for the Bays of San Francisco, San Pablo, and
32 Suisun.

33 SEC. 3. Section 14033 is added to the Government Code, to
34 read:

35 14033. On or before January 1, 2018, the department shall
36 update the Highway Design Manual to incorporate the "complete
37 streets" design concept.

38 SEC. 4. Section 14110 is added to the Government Code, to
39 read:

1 14110. The department shall develop a plan by January 1, 2020,
2 to increase by 100 percent the dollar value of contracts awarded
3 to small businesses, disadvantaged business enterprises, and
4 disabled veteran business enterprises.

5 SEC. 5. Part 5.1 (commencing with Section 14460) is added
6 to Division 3 of Title 2 of the Government Code, to read:

7
8 PART 5.1. OFFICE OF THE TRANSPORTATION INSPECTOR
9 GENERAL
10

11 14460. (a) There is hereby created in state government the
12 independent Office of the Transportation Inspector General, which
13 shall not be a subdivision of any other governmental entity, to
14 ensure that the Department of Transportation, the High-Speed Rail
15 Authority, the Department of the California Highway Patrol, the
16 Department of Motor Vehicles, the State Air Resources Board,
17 and all other state agencies expending state transportation funds
18 are operating efficiently, effectively, and in compliance with
19 applicable federal and state laws.

20 (b) The Governor shall appoint, subject to confirmation by the
21 Senate, the Transportation Inspector General to a six-year term.
22 The Transportation Inspector General may not be removed from
23 office during that term, except for good cause. A finding of good
24 cause may include substantial neglect of duty, gross misconduct,
25 or conviction of a crime. The reasons for removal of the
26 Transportation Inspector General shall be stated in writing and
27 shall include the basis for removal. The writing shall be sent to
28 the Secretary of the Senate and the Chief Clerk of the Assembly
29 at the time of the removal and shall be deemed to be a public
30 document.

31 14461. The Transportation Inspector General shall review
32 policies, practices, and procedures and conduct audits and
33 investigations of activities involving state transportation funds in
34 consultation with all affected state agencies. Specifically, the
35 Transportation Inspector General's duties and responsibilities shall
36 include, but not be limited to, all of the following:

37 (a) To examine the operating practices of all state agencies
38 expending state transportation funds to identify fraud and waste,
39 opportunities for efficiencies, and opportunities to improve the
40 data used to determine appropriate project resource allocations.

1 (b) To identify best practices in the delivery of transportation
2 projects and develop policies or recommend proposed legislation
3 enabling state agencies to adopt these practices when practicable.

4 (c) To provide objective analysis of and, when possible, offer
5 solutions to concerns raised by the public or generated within
6 agencies involving the state's transportation infrastructure and
7 project delivery methods.

8 (d) To conduct, supervise, and coordinate audits and
9 investigations relating to the programs and operations of all state
10 transportation agencies with state-funded transportation projects.

11 (e) To recommend policies promoting economy and efficiency
12 in the administration of programs and operations of all state
13 agencies with state-funded transportation projects.

14 (f) To ensure that the Secretary of Transportation and the
15 Legislature are fully and currently informed concerning fraud or
16 other serious abuses or deficiencies relating to the expenditure of
17 funds or administration of programs and operations.

18 14462. The Transportation Inspector General shall report at
19 least annually to the Governor and Legislature with a summary of
20 his or her findings, investigations, and audits. The summary shall
21 be posted on the Transportation Inspector General's Internet Web
22 site and shall otherwise be made available to the public upon its
23 release to the Governor and Legislature. The summary shall
24 include, but need not be limited to, significant problems discovered
25 by the Transportation Inspector General and whether
26 recommendations of the Transportation Inspector General relative
27 to investigations and audits have been implemented by the affected
28 agencies. The report shall be submitted to the Legislature in
29 compliance with Section 9795.

30 SEC. 6. Section 14500 of the Government Code is amended
31 to read:

32 14500. There is in ~~the Transportation Agency~~ *state government*
33 a California Transportation Commission. *The commission shall*
34 *act in an independent oversight role.*

35 SEC. 7. Section 14526.5 of the Government Code is amended
36 to read:

37 14526.5. (a) Based on the asset management plan prepared
38 and approved pursuant to Section 14526.4, the department shall
39 prepare a state highway operation and protection program for the
40 expenditure of transportation funds for major capital improvements

1 that are necessary to preserve and protect the state highway system.
2 Projects included in the program shall be limited to ~~capital~~
3 improvements relative to the maintenance, safety, operation, and
4 rehabilitation of state highways and bridges that do not add a new
5 traffic lane to the system.

6 (b) The program shall include projects that are expected to be
7 advertised prior to July 1 of the year following submission of the
8 program, but which have not yet been funded. The program shall
9 include those projects for which construction is to begin within
10 four fiscal years, starting July 1 of the year following the year the
11 program is submitted.

12 (c) *(1)* The department, at a minimum, shall specify, for each
13 project in the state highway operation and protection program, the
14 capital and support ~~budget, as well as a projected delivery date,~~
15 *budget* for each of the following project components:

16 ~~(1) Completion of project~~

17 *(A) Project approval and environmental documents.*

18 ~~(2) Preparation of plans,~~

19 *(B) Plans, specifications, and estimates.*

20 ~~(3) Acquisition of rights-of-way, including, but not limited to,~~
21 ~~support activities.~~

22 *(C) Rights-of-way.*

23 *(D) Construction.*

24 *(2) The department shall specify, for each project in the state*
25 *highway operation and protection program, a projected delivery*
26 *date for each of the following components:*

27 *(A) Environmental document completion.*

28 *(B) Plans, specifications, and estimate completion.*

29 *(C) Right-of-way certification.*

30 ~~(4)~~

31 *(D) Start of construction.*

32 ~~(d) The program shall be submitted~~ *department shall submit its*
33 *proposed program* to the commission not later than January 31 of
34 each even-numbered year. Prior to submitting ~~the plan, the its~~
35 *proposed program, the* department shall make a draft of its
36 proposed program available to transportation planning agencies
37 for review and comment and shall include the comments in its
38 submittal to the commission. *The department shall provide the*
39 *commission with detailed information for all programmed projects,*

1 *including, but not limited to, cost, scope, schedule, and*
2 *performance metrics as determined by the commission.*

3 (e) The commission ~~may~~ shall review the *proposed* program
4 relative to its overall adequacy, consistency with the asset
5 management plan prepared and approved pursuant to Section
6 14526.4 and funding priorities established in Section 167 of the
7 Streets and Highways Code, the level of annual funding needed
8 to implement the program, and the impact of those expenditures
9 on the state transportation improvement program. The commission
10 shall adopt the program and submit it to the Legislature and the
11 Governor not later than April 1 of each even-numbered year. The
12 commission may decline to adopt the program if the commission
13 determines that the program is not sufficiently consistent with the
14 asset management plan prepared and approved pursuant to Section
15 14526.4.

16 (f) *As part of the commission's review of the program required*
17 *pursuant to subdivision (a), the commission shall hold at least one*
18 *hearing in northern California and one hearing in southern*
19 *California regarding the proposed program.*

20 ~~(f)~~

21 (g) Expenditures for these projects shall not be subject to
22 Sections 188 and 188.8 of the Streets and Highways Code.

23 (h) *Following adoption of the state highway operation and*
24 *protection program by the commission, any change to a*
25 *programmed project shall be submitted as an amendment by the*
26 *department to the commission for its approval before the change*
27 *may be implemented.*

28 SEC. 8. Section 14526.7 is added to the Government Code, to
29 read:

30 14526.7. (a) On and after August 1, 2017, an allocation by the
31 commission of all capital and support costs for each project in the
32 state highway operation and protection program shall be required.

33 (b) For a project that experiences increases in capital or support
34 costs above the amounts in the commission's allocation pursuant
35 to subdivision (a), a supplemental project allocation request shall
36 be submitted by the department to the commission for approval.

37 (c) The commission shall establish guidelines to provide
38 exceptions to the requirement of subdivision (b) that the
39 commission determines are necessary to ensure that projects are
40 not unnecessarily delayed.

1 SEC. 9. Section 14534.1 of the Government Code is repealed.
2 ~~14534.1. Notwithstanding Section 12850.6 or subdivision (b)~~
3 ~~of Section 12800, as added to this code by the Governor's~~
4 ~~Reorganization Plan No. 2 of 2012 during the 2011-12 Regular~~
5 ~~Session, the commission shall retain independent authority to~~
6 ~~perform those duties and functions prescribed to it under any~~
7 ~~provision of law.~~

8 SEC. 10. Section 16321 is added to the Government Code, to
9 read:

10 16321. (a) Notwithstanding any other law, on or before March
11 1, 2017, the Department of Finance shall compute the amount of
12 outstanding loans made from the State Highway Account, the
13 Motor Vehicle Fuel Account, the Highway Users Tax Account,
14 and the Motor Vehicle Account to the General Fund. The
15 department shall prepare a loan repayment schedule, pursuant to
16 which the outstanding loans shall be repaid, as follows:

17 (1) On or before December 31, 2017, 50 percent of the
18 outstanding loan amounts.

19 (2) On or before December 31, 2018, the remainder of the
20 outstanding loan amounts.

21 (b) Notwithstanding any other law, as the loans are repaid
22 pursuant to this section, the repaid funds shall be transferred in the
23 following manner:

24 (1) Fifty percent to cities and counties pursuant to clauses (i)
25 and (ii) of subparagraph (C) of paragraph (3) of subdivision (a) of
26 Section 2103 of the Streets and Highways Code.

27 (2) Fifty percent to the department for maintenance of the state
28 highway system and for purposes of the state highway operation
29 and protection program.

30 (c) Funds for loan repayments pursuant to this section are hereby
31 appropriated from the Budget Stabilization Account pursuant to
32 subclause (II) of clause (ii) of subparagraph (B) of paragraph (1)
33 of subdivision (c) of Section 20 of Article XVI of the California
34 Constitution.

35 SEC. 11. Section 16965 of the Government Code is amended
36 to read:

37 16965. (a) (1) The Transportation Debt Service Fund is hereby
38 created in the State Treasury. Moneys in the fund shall be dedicated
39 to all of the following purposes:

1 (A) Payment of debt service with respect to designated bonds,
2 as defined in subdivision (c) of Section 16773, and as further
3 provided in paragraph (3) and subdivision (b).

4 (B) To reimburse the General Fund for debt service with respect
5 to bonds.

6 (C) To redeem or retire bonds, pursuant to Section 16774,
7 maturing in a subsequent fiscal year.

8 (2) The bonds eligible under subparagraph (B) or (C) of
9 paragraph (1) include bonds issued pursuant to the ~~Clean Air and~~
10 ~~Transportation Improvement Act of 1990 (Part 11.5 (commencing~~
11 ~~with Section 99600) of Division 10 of the Public Utilities Code),~~
12 ~~the Passenger Rail and Clean Air Bond Act of 1990 (Chapter 17~~
13 ~~(commencing with Section 2701) of Division 3 of the Streets and~~
14 ~~Highways Code), the Seismic Retrofit Bond Act of 1996 (Chapter~~
15 ~~12.48 (commencing with Section 8879) of Division 1 of Title 2),~~
16 ~~and the Safe, Reliable High-Speed Passenger Train Bond Act for~~
17 ~~the 21st Century (Chapter 20 (commencing with Section 2704) of~~
18 ~~Division 3 of the Streets and Highways Code), and nondesignated~~
19 ~~bonds under Proposition 1B, as defined in subdivision (c) of~~
20 ~~Section 16773.~~

21 (3) (A) The Transportation Bond Direct Payment Account is
22 hereby created in the State Treasury, as a subaccount within the
23 Transportation Debt Service Fund, for the purpose of directly
24 paying the debt service, as defined in paragraph (4), of designated
25 bonds of Proposition 1B, as defined in subdivision (c) of Section
26 16773. Notwithstanding Section 13340, moneys in the
27 Transportation Bond Direct Payment Account are continuously
28 appropriated for payment of debt service with respect to designated
29 bonds as provided in subdivision (c) of Section 16773. So long as
30 any designated bonds remain outstanding, the moneys in the
31 Transportation Bond Direct Payment Account may not be used
32 for any other purpose, and may not be borrowed by or available
33 for transfer to the General Fund pursuant to Section 16310 or any
34 similar law, or to the General Cash Revolving Fund pursuant to
35 Section 16381 or any similar law.

36 (B) Once the Treasurer makes a certification that payment of
37 debt service with respect to all designated bonds has been paid or
38 provided for, any remaining moneys in the Transportation Bond
39 Direct Payment Account shall be transferred back to the
40 Transportation Debt Service Fund.

1 (C) The moneys in the Transportation Bond Direct Payment
2 Account shall be invested in the Surplus Money Investment Fund,
3 and all investment earnings shall accrue to the account.

4 (D) The Controller may establish subaccounts within the
5 Transportation Bond Direct Payment Account as may be required
6 by the resolution, indenture, or other documents governing any
7 designated bonds.

8 (4) For purposes of this subdivision and subdivision (b), and
9 subdivision (c) of Section 16773, “debt service” means payment
10 of all of the following costs and expenses with respect to any
11 designated bond:

12 (A) The principal of and interest on the bonds.

13 (B) Amounts payable as the result of tender on any bonds, as
14 described in clause (iv) of subparagraph (B) of paragraph (1) of
15 subdivision (d) of Section 16731.

16 (C) Amounts payable under any contractual obligation of the
17 state to repay advances and pay interest thereon under a credit
18 enhancement or liquidity agreement as described in clause (iv) of
19 subparagraph (B) of paragraph (1) of subdivision (d) of Section
20 16731.

21 (D) Any amount owed by the state to a counterparty after any
22 offset for payments owed to the state on any hedging contract as
23 described in subparagraph (A) of paragraph (2) of subdivision (d)
24 of Section 16731.

25 (b) From the moneys transferred to the fund pursuant to
26 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
27 Vehicle Code, there shall first be deposited into the Transportation
28 Bond Direct Payment Account in each month sufficient funds to
29 equal the amount designated in a certificate submitted by the
30 Treasurer to the Controller and the Director of Finance at the start
31 of each fiscal year, and as may be modified by the Treasurer
32 thereafter upon issuance of any new issue of designated bonds or
33 upon change in circumstances that requires such a modification.
34 This certificate shall be calculated by the Treasurer to identify, for
35 each month, the amount necessary to fund all of the debt service
36 with respect to all designated bonds. This calculation shall be done
37 in a manner provided in the resolution, indenture, or other
38 documents governing the designated bonds. In the event that
39 transfers to the Transportation Bond Direct Payment Account in
40 any month are less than the amounts required in the Treasurer’s

1 certificate, the shortfall shall carry over to be part of the required
2 payment in the succeeding month or months.

3 (c) The state hereby covenants with the holders from time to
4 time of any designated bonds that it will not alter, amend, or restrict
5 the provisions of subdivision (c) of Section 16773 of the
6 Government Code, or Sections 9400, 9400.1, 9400.4, and 42205
7 of the Vehicle Code, which provide directly or indirectly for the
8 transfer of weight fees to the Transportation Debt Service Fund
9 or the Transportation Bond Direct Payment Account, or
10 subdivisions (a) and (b) of this section, or reduce the rate of
11 imposition of vehicle weight fees under Sections 9400 and 9400.1
12 of the Vehicle Code as they existed on the date of the first issuance
13 of any designated bonds, if that alteration, amendment, restriction,
14 or reduction would result in projected weight fees for the next
15 fiscal year determined by the Director of Finance being less than
16 two times the maximum annual debt service with respect to all
17 outstanding designated bonds, as such calculation is determined
18 pursuant to the resolution, indenture, or other documents governing
19 the designated bonds. The state may include this covenant in the
20 resolution, indenture, or other documents governing the designated
21 bonds.

22 (d) Once the required monthly deposit, including makeup of
23 any shortfalls from any prior month, has been made pursuant to
24 subdivision (b), from moneys transferred to the fund pursuant to
25 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
26 Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the
27 Controller shall transfer as an expenditure reduction to the General
28 Fund any amount necessary to offset the cost of current year debt
29 service payments made from the General Fund with respect to any
30 bonds issued pursuant to Proposition 192 (1996) and three-quarters
31 of the amount of current year debt service payments made from
32 the General Fund with respect to any nondesignated bonds, as
33 defined in subdivision (c) of Section 16773, issued pursuant to
34 Proposition 1B (2006). In the alternative, these funds may also be
35 used to redeem or retire the applicable bonds, pursuant to Section
36 16774, maturing in a subsequent fiscal year as directed by the
37 Director of Finance.

38 ~~(e) From moneys transferred to the fund pursuant to Section~~
39 ~~183.1 of the Streets and Highways Code, the Controller shall~~
40 ~~transfer as an expenditure reduction to the General Fund any~~

1 ~~amount necessary to offset the cost of current year debt service~~
2 ~~payments made from the General Fund with respect to any bonds~~
3 ~~issued pursuant to Proposition 116 (1990). In the alternative, these~~
4 ~~funds may also be used to redeem or retire the applicable bonds,~~
5 ~~pursuant to Section 16774, maturing in a subsequent fiscal year~~
6 ~~as directed by the Director of Finance.~~

7 ~~(f)~~

8 (e) Once the required monthly deposit, including makeup of
9 any shortfalls from any prior month, has been made pursuant to
10 subdivision (b), from moneys transferred to the fund pursuant to
11 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
12 Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the
13 Controller shall transfer as an expenditure reduction to the General
14 Fund any amount necessary to offset the eligible cost of current
15 year debt service payments made from the General Fund with
16 respect to any bonds issued pursuant to Proposition 108 (1990)
17 and Proposition 1A (2008), and one-quarter of the amount of
18 current year debt service payments made from the General Fund
19 with respect to any nondesignated bonds, as defined in subdivision
20 (c) of Section 16773, issued pursuant to Proposition 1B (2006).
21 The Department of Finance shall notify the Controller by July 30
22 of every year of the percentage of debt service that is expected to
23 be paid in that fiscal year with respect to bond-funded projects that
24 qualify as eligible guideway projects consistent with the
25 requirements applicable to the expenditure of revenues under
26 Article XIX of the California Constitution, and the Controller shall
27 make payments only for those eligible projects. In the alternative,
28 these funds may also be used to redeem or retire the applicable
29 bonds, pursuant to Section 16774, maturing in a subsequent fiscal
30 year as directed by the Director of Finance.

31 ~~(g)~~

32 (f) On or before the second business day following the date on
33 which transfers are made to the Transportation Debt Service Fund,
34 and after the required monthly deposits for that month, including
35 makeup of any shortfalls from any prior month, have been made
36 to the Transportation Bond Direct Payment Account, the Controller
37 shall transfer the funds designated for reimbursement of bond debt
38 service with respect to nondesignated bonds, as defined in
39 subdivision (c) of Section 16773, and other bonds identified in

1 subdivisions ~~(d), (e), and (f)~~ *(d) and (e)* in that month from the
2 fund to the General Fund pursuant to this section.

3 SEC. 12. Section 39719 of the Health and Safety Code is
4 amended to read:

5 39719. (a) The Legislature shall appropriate the annual
6 proceeds of the fund for the purpose of reducing greenhouse gas
7 emissions in this state in accordance with the requirements of
8 Section 39712.

9 (b) To carry out a portion of the requirements of subdivision
10 (a), annual proceeds are continuously appropriated for the
11 following:

12 (1) Beginning in the ~~2015–16~~ *2017–18* fiscal year, and
13 notwithstanding Section 13340 of the Government Code, ~~35~~ *50*
14 percent of annual proceeds are continuously appropriated, without
15 regard to fiscal years, for transit, affordable housing, and
16 sustainable communities programs as ~~following~~ *follows*:

17 (A) ~~Ten~~ *Twenty* percent of the annual proceeds of the fund is
18 hereby continuously appropriated to the Transportation Agency
19 for the Transit and Intercity Rail Capital Program created by Part
20 2 (commencing with Section 75220) of Division 44 of the Public
21 Resources Code.

22 (B) ~~Five~~ *Ten* percent of the annual proceeds of the fund is hereby
23 continuously appropriated to the Low Carbon Transit Operations
24 Program created by Part 3 (commencing with Section 75230) of
25 Division 44 of the Public Resources Code. ~~Funds~~ *Moneys* shall be
26 allocated by the Controller, according to requirements of the
27 program, and pursuant to the distribution formula in subdivision
28 (b) or (c) of Section 99312 of, and Sections 99313 and 99314 of,
29 the Public Utilities Code.

30 (C) Twenty percent of the annual proceeds of the fund is hereby
31 continuously appropriated to the Strategic Growth Council for the
32 Affordable Housing and Sustainable Communities Program created
33 by Part 1 (commencing with Section 75200) of Division 44 of the
34 Public Resources Code. Of the amount appropriated in this
35 subparagraph, no less than 10 percent of the annual ~~proceeds~~,
36 *proceeds* shall be expended for affordable housing, consistent with
37 the provisions of that program.

38 (2) Beginning in the 2015–16 fiscal year, notwithstanding
39 Section 13340 of the Government Code, 25 percent of the annual
40 proceeds of the fund is hereby continuously appropriated to the

1 High-Speed Rail Authority for the following components of the
2 initial operating segment and Phase I Blended System as described
3 in the 2012 business plan adopted pursuant to Section 185033 of
4 the Public Utilities Code:

- 5 (A) Acquisition and construction costs of the project.
- 6 (B) Environmental review and design costs of the project.
- 7 (C) Other capital costs of the project.
- 8 (D) Repayment of any loans made to the authority to fund the
9 project.

10 (c) In determining the amount of annual proceeds of the fund
11 for purposes of the calculation in subdivision (b), the funds subject
12 to Section 39719.1 shall not be included.

13 SEC. 13. Section 21080.37 of the Public Resources Code is
14 amended to read:

15 21080.37. (a) This division does not apply to a project or an
16 activity to repair, maintain, or make minor alterations to an existing
17 roadway if all of the following conditions are met:

18 ~~(1) The project is carried out by a city or county with a~~
19 ~~population of less than 100,000 persons to improve public safety.~~

20 ~~(2)~~

21 (1) (A) The project does not cross a waterway.

22 (B) For purposes of this paragraph, “waterway” means a bay,
23 estuary, lake, pond, river, slough, or a perennial, intermittent, or
24 ephemeral stream, lake, or estuarine-marine shoreline.

25 ~~(3)~~

26 (2) The project involves negligible or no expansion of an
27 existing use beyond that existing at the time of the lead agency’s
28 determination.

29 ~~(4) The roadway is not a state roadway.~~

30 ~~(5)~~

31 (3) (A) The site of the project does not contain wetlands or
32 riparian areas and does not have significant value as a wildlife
33 habitat, and the project does not harm any species protected by the
34 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et
35 seq.), the Native Plant Protection Act (Chapter 10 (commencing
36 with Section 1900) of Division 2 of the Fish and Game Code), or
37 the California Endangered Species Act (Chapter 1.5 (commencing
38 with Section 2050) of Division 3 of the Fish and Game Code), and
39 the project does not cause the destruction or removal of any species
40 protected by a local ordinance.

(B) For the purposes of this paragraph:

(i) “Riparian areas” mean those areas transitional between terrestrial and aquatic ecosystems and that are distinguished by gradients in biophysical conditions, ecological processes, and biota. A riparian area is an area through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. A riparian area includes those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine shorelines.

(ii) “Significant value as a wildlife habitat” includes wildlife habitat of national, statewide, regional, or local importance; habitat for species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. ~~1531~~, 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code); habitat identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies; or habitat essential to the movement of resident or migratory wildlife.

(iii) “Wetlands” has the same meaning as in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(iv) “Wildlife habitat” means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

~~(6)~~

(4) The project does not impact cultural resources.

~~(7)~~

(5) The roadway does not affect scenic resources, as provided pursuant to subdivision (c) of Section 21084.

(b) Prior to determining that a project is exempt pursuant to this section, the lead agency shall do both of the following:

(1) Include measures in the project to mitigate potential vehicular traffic and safety impacts and bicycle and pedestrian safety impacts.

(2) Hold a noticed public hearing on the project to hear and respond to public comments. The hearing on the project may be conducted with another noticed lead agency public hearing. Publication of the notice shall be no fewer times than required by

1 Section 6061 of the Government Code, by the public agency in a
2 newspaper of general circulation in the area.

3 (c) For purposes of this section, “roadway” means a roadway
4 as defined pursuant to Section 530 of the Vehicle Code and the
5 previously graded and maintained shoulder that is within a roadway
6 right-of-way of no more than five feet from the edge of the
7 roadway.

8 (d) *(1) If a state agency determines that a project is not subject*
9 *to this division pursuant to this section and it approves or*
10 *determines to carry out that project, it shall file a notice with the*
11 *Office of Planning and Research in the manner specified in*
12 *subdivisions (b) and (c) of Section 21108.*

13 ~~(d) Whenever~~

14 (2) *If a local agency determines that a project is not subject to*
15 *this division pursuant to this section, section and it approves or*
16 *determines to carry out that project, the local agency it shall file*
17 *a notice with the Office of Planning and Research, and with the*
18 *county clerk in the county in which the project will be located in*
19 *the manner specified in subdivisions (b) and (c) of Section 21152.*

20 ~~(e) This section shall remain in effect only until January 1, 2020,~~
21 ~~and as of that date is repealed, unless a later enacted statute, that~~
22 ~~is enacted before January 1, 2020, deletes or extends that date.~~

23 SEC. 14. Division 13.6 (commencing with Section 21200) is
24 added to the Public Resources Code, to read:

25
26 DIVISION 13.6. ADVANCE MITIGATION PROGRAM ACT

27
28 CHAPTER 1. GENERAL

29
30 21200. This division shall be known, and may be cited, as the
31 Advance Mitigation Program Act.

32 21201. (a) The purpose of this division is to improve the
33 success and effectiveness of actions implemented to mitigate the
34 natural resource impacts of future transportation improvements
35 by designing those actions to measurably advance regional or
36 statewide conservation priorities and by establishing the means to
37 implement the actions well before the impacts occur. The advance
38 design and implementation of mitigation actions also will
39 streamline the delivery of transportation improvements by avoiding
40 or reducing delays associated with environmental permitting.

(b) This division is not intended to create a new environmental permitting or regulatory program or to modify existing environmental laws or regulations, nor is it expected that all mitigation requirements will be addressed for planned transportation improvements. Instead, it is intended to provide a methodology with which to fulfill the requirements of existing state and federal environmental laws that protect fish, wildlife, plant species, and other natural resources more efficiently and effectively.

21202. The Legislature finds and declares all of the following:

(a) Compensatory mitigation for environmental impacts is ordinarily handled on a project-by-project basis, usually near the end of a project's timeline and often with insufficient guidance regarding regional or statewide conservation priorities.

(b) The cost of critical transportation improvements often escalates because of permitting delays that occur when appropriate conservation and mitigation measures cannot easily be identified and because the cost of these measures often increases between the time a project is planned and funded and the time mitigation is implemented.

(c) When the Department of Transportation is able to anticipate the compensatory mitigation needs for planned transportation improvements, it can meet those needs in a more timely and cost-effective way by using advance mitigation planning.

(d) Working with state and federal resource protection agencies, the department can generate and pool a range of mitigation credits for use for transportation improvements, taking advantage of greater economies of scale and allowing public funds to stretch further. By making those mitigation credits available in advance of environmental impacts and project permitting, transportation agencies can avoid permitting delays that result from project-by-project identification and development of mitigation measures.

(e) Advance mitigation can provide an effective means of facilitating delivery of transportation improvements while ensuring more effective natural resource conservation.

(f) Advance mitigation is needed to direct mitigation funding for transportation improvements to agreed-upon conservation priorities and to the creation of habitat reserves and recreation areas that enhance the sustainability of human and natural systems

1 by protecting or restoring connectivity of natural communities and
2 the delivery of ecosystem services.

3 (g) Advance mitigation can facilitate the implementation of
4 climate change adaptation strategies both for ecosystems and
5 California's economy.

6 (h) Advance mitigation can enable the state to protect, restore,
7 and recover its natural resources as it strengthens and improves
8 its transportation systems.

9 21203. The Legislature intends to do all of the following by
10 enacting this division:

11 (a) Facilitate delivery of transportation improvements while
12 ensuring more effective natural resource conservation.

13 (b) Develop effective strategies to improve the state's ability to
14 meet mounting demands for transportation improvements and to
15 maximize conservation and other public benefits.

16 (c) Achieve conservation objectives of statewide and regional
17 importance by coordinating local, state, and federally funded
18 natural resource conservation efforts with mitigation actions
19 required for impacts from transportation improvements.

20 (d) Create administrative, governance, and financial incentives
21 and mechanisms necessary to ensure that measures required to
22 minimize or mitigate impacts from transportation improvements
23 will serve to achieve regional or statewide natural resource
24 conservation objectives.

25 CHAPTER 2. DEFINITIONS

26
27
28 21204. For purposes of this division, the following terms have
29 the following meanings:

30 (a) "Acquire" and "acquisition" mean, with respect to land or
31 a waterway, acquisition of fee title or purchase of a conservation
32 easement, that protects conservation and mitigation values on the
33 land or waterway in perpetuity.

34 (b) "Advance mitigation" means mitigation implemented before,
35 and in anticipation of, environmental effects of planned
36 transportation improvements.

37 (c) "Commission" means the California Transportation
38 Commission.

(d) “Conservation easement” means a perpetual conservation easement that complies with Chapter 4 (commencing with Section 815) of Title 2 of Part 2 of Division 2 of the Civil Code.

(e) “Department” means the Department of Transportation.

(f) “Mitigation credit agreement” means a mitigation credit agreement pursuant to Chapter 9 (commencing with Section 1850) of Division 2 of the Fish and Game Code.

(g) “Transportation agency” means the department, the High-Speed Rail Authority, a metropolitan planning organization, a regional transportation planning agency, or another public agency that implements transportation improvements.

(h) “Transportation improvement” means a transportation capital improvement project.

(i) “Planned transportation improvement” means a transportation project that a transportation agency has identified in a regional transportation plan, an interregional transportation plan, a capital improvement program, or other approved transportation planning document. A planned transportation improvement may include, but is not limited to, a transportation project that has been proposed for approval or that has been approved.

(j) “Program” means the Advance Mitigation Program implemented pursuant to this division.

(k) “Regional conservation investment strategy” means a regional conservation investment strategy pursuant to Chapter 9 (commencing with Section 1850) of Division 2 of the Fish and Game Code.

(l) “Regulatory agency” means a state or federal natural resource protection agency with regulatory authority over planned transportation improvements. A regulatory agency includes, but is not limited to, the Natural Resources Agency, the Department of Fish and Wildlife, California regional water quality control boards, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the United States Environmental Protection Agency, and the United States Army Corps of Engineers.

CHAPTER 3. ADVANCE MITIGATION PROGRAM

21205. (a) The Advance Mitigation Program is hereby created in the department to accelerate project delivery and improve

1 environmental outcomes of environmental mitigation for planned
2 transportation improvements. The department may do any of the
3 following to administer and implement the program:

4 (1) Purchase credits at mitigation banks and conservation banks
5 approved by one or more regulatory agencies. The department
6 may also establish mitigation banks or conservation banks, or fund
7 the establishment of mitigation banks or conservation banks, in
8 accordance with applicable state and federal standards if the
9 department determines that those banks would provide biologically
10 appropriate mitigation for planned transportation improvements
11 identified pursuant to Section 21207.

12 (2) Pay mitigation fees under natural community conservation
13 plans approved pursuant to Chapter 10 (commencing with Section
14 2800) of Division 3 of the Fish and Game Code, or habitat
15 conservation plans approved in accordance with the federal
16 Endangered Species Act.

17 (3) Prepare, or fund the preparation of, regional conservation
18 investment strategies. Where a regional conservation framework
19 has been approved by the Department of Fish and Wildlife, the
20 department may do the following:

21 (A) Enter into a mitigation credit agreement with the Department
22 of Fish and Wildlife, and acquire, restore, manage, monitor, protect,
23 and preserve lands, waterways, aquatic resources or fisheries, or
24 fund the acquisition, restoration, management, monitoring,
25 protection, and preservation of lands, waterways, aquatic resources,
26 or fisheries, as needed to generate mitigation credits pursuant to
27 those mitigation credit agreements.

28 (B) Acquire, restore, manage, monitor, and preserve lands,
29 waterways, aquatic resources, or fisheries, or fund the acquisition,
30 restoration, management, monitoring, and preservation of lands,
31 waterways, aquatic resources, or fisheries that would measurably
32 advance a conservation objective in the regional conservation
33 investment strategy if the department concludes that the action or
34 actions could conserve or create environmental values that are
35 appropriate to mitigate the anticipated potential impacts of planned
36 transportation improvements.

37 (4) Prepare, or fund the preparation of, regional advance
38 mitigation plans within the area of any regional conservation
39 investment strategy that has been approved by the Department of
40 Fish and Wildlife. The purpose of a regional advance mitigation

1 plan shall be to identify potential mitigation needs for planned
2 transportation improvements, to facilitate the acquisition or
3 generation of mitigation credits and values that could be used to
4 fulfill those needs and thereby to avoid delays in the environmental
5 permitting of those transportation improvements. A regional
6 advance mitigation plan shall do all of the following:

7 (A) Use the information and analysis in the regional
8 conservation investment strategy to estimate the nature and extent
9 of potential mitigation requirements of planned transportation
10 improvements on a regional or statewide basis.

11 (B) Consider the full range of potential impacts on natural
12 resources of planned transportation improvements.

13 (C) Identify available mitigation credits at mitigation banks or
14 conservation banks approved by one or more regulatory agencies
15 that could be used to mitigate the impacts of planned transportation
16 improvements.

17 (D) Assess whether, and to what extent, mitigation requirements
18 for planned transportation improvements could be fulfilled by the
19 payment of mitigation fees under approved natural community
20 conservation plans and habitat conservation plans.

21 (E) Assess whether, and to what extent, mitigation requirements
22 for planned transportation improvements could be fulfilled by
23 mitigation credits created under a mitigation credit agreement.

24 (F) Assess whether conservation actions or habitat enhancements
25 that would measurably advance an unmet conservation objective
26 in the regional conservation investment strategy could conserve
27 or create environmental values that are appropriate to mitigate the
28 anticipated potential impacts of planned transportation
29 improvements and could fulfill mitigation requirements resulting
30 from those impacts.

31 (G) Analyze the cost-effectiveness of available mitigation
32 alternatives both in terms of environmental benefits and improved
33 project delivery and certainty.

34 (b) The department shall track all advance mitigation actions
35 implemented and all mitigation credits generated under the program
36 for environmental mitigation for transportation improvements.

37 (c) The department may use mitigation credits to fulfill
38 mitigation requirements of a transportation improvement eligible
39 for the State Transportation Improvement Program or the State
40 Highway Operation and Protection Program.

(d) The department may use, or allow local or state transportation agencies to use, mitigation credits or values generated or obtained under the program to fulfill the mitigation requirements of planned transportation improvements if the applicable transportation agency reimburses the program for all costs of purchasing or creating the mitigation credits or values, as determined by the department. Those costs shall be calculated using total cost accounting and shall include, as applicable, land acquisition or conservation easement costs, monitoring and enforcement costs, restoration costs, transaction costs, administrative costs, contingency costs, and land management, monitoring, and protection costs.

21206. No later than February 1, 2017, the department shall establish an interagency transportation advance mitigation steering committee consisting of the department and appropriate state and federal regulatory agencies to support the program so that advance mitigation can be used as required mitigation for planned transportation improvements and can provide improved environmental outcomes. The committee shall advise the department of opportunities to carry out advance mitigation improvements, provide the best available science, and actively participate in mitigation instrument reviews and approvals. The committee shall seek to develop streamlining opportunities, including those related to landscape scale mitigation planning and alignment of federal and state regulations and procedures related to mitigation requirements and implementation. The committee shall also provide input on crediting, using, and tracking of advance mitigation investments.

21207. The Advance Mitigation Fund is hereby created in the State Transportation Fund as a revolving fund. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated without regard to fiscal years. The moneys in the fund shall be programmed by the commission for the planning and implementation of advance mitigation improvements consistent with the purposes of this chapter. After the transfer of moneys to the fund for four fiscal years pursuant to subdivision (c) of Section 2032 of the Streets and Highways Code, commencing in the 2017–18 fiscal year, the program is intended to be self-sustaining. Advance expenditures from the fund shall later be reimbursed from project funding available at the time a

planned transportation improvement is constructed. A maximum of 5 percent of available funds may be used for administrative purposes.

21208. The program is intended to improve the efficiency and efficacy of mitigation only and is not intended to supplant the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)) or any other environmental law. The identification of planned transportation improvements and of mitigation improvements or measures for planned transportation improvements under this division does not imply or require approval of those improvements for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000)) or any other environmental law.

SEC. 15. Section 99312.1 of the Public Utilities Code is amended to read:

99312.1. (a) Revenues transferred to the Public Transportation Account pursuant to Sections 6051.8 and 6201.8 of the Revenue and Taxation Code *for the State Transit Assistance Program* are hereby continuously appropriated to the Controller for allocation as follows:

(~~a~~)
(1) Fifty percent for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board pursuant to Section 99314.

(~~b~~)
(2) Fifty percent for allocation to transportation agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board for purposes of Section 99313.

~~For~~
(b) *For* purposes of this chapter, the revenues allocated pursuant to this section shall be subject to the same requirements as revenues allocated pursuant to subdivisions (b) and (c), as applicable, of Section 99312.

(c) *The revenues transferred to the Public Transportation Account for the State Transit Assistance Program that are attributable to the increase in the sales and use tax on diesel fuel pursuant to subdivision (b) of Section 6051.8 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section, and subdivision (b) of Section 6201.8 of the Revenue and*

1 *Taxation Code, as adjusted pursuant to subdivision (c) of that*
2 *section, upon allocation pursuant to Sections 99313 and 99314,*
3 *shall only be expended on the following:*

4 *(1) Transit capital projects or services to maintain or repair a*
5 *transit operator's existing transit vehicle fleet or existing transit*
6 *facilities, including rehabilitation or modernization of existing*
7 *vehicles or facilities.*

8 *(2) The design, acquisition, and construction of new vehicles*
9 *or facilities that improve existing transit services.*

10 *(3) Transit services that complement local efforts for repair and*
11 *improvement of local transportation infrastructure.*

12 *(d) (1) Prior to receiving an apportionment of funds pursuant*
13 *to subdivision (c) from the Controller in a fiscal year, a recipient*
14 *transit agency shall submit to the Department of Transportation*
15 *a list of projects proposed to be funded with these funds. The list*
16 *of projects proposed to be funded with these funds shall include*
17 *a description and location of each proposed project, a proposed*
18 *schedule for the project's completion, and the estimated useful life*
19 *of the improvement. The project list shall not limit the flexibility*
20 *of a recipient transit agency to fund projects in accordance with*
21 *local needs and priorities so long as the projects are consistent*
22 *with subdivision (c).*

23 *(2) The department shall report to the Controller the recipient*
24 *transit agencies that have submitted a list of projects as described*
25 *in this subdivision and that are therefore eligible to receive an*
26 *apportionment of funds for the applicable fiscal year. The*
27 *Controller, upon receipt of the report, shall apportion funds*
28 *pursuant to Sections 99313 and 99314.*

29 *(e) For each fiscal year, each recipient transit agency receiving*
30 *an apportionment of funds pursuant to subdivision (c) shall, upon*
31 *expending those funds, submit documentation to the department*
32 *that includes a description and location of each completed project,*
33 *the amount of funds expended on the project, the completion date,*
34 *and the estimated useful life of the improvement.*

35 *(f) The audit of transit operator finances required pursuant to*
36 *Section 99245 shall verify that the revenues identified in*
37 *subdivision (c) have been expended in conformance with these*
38 *specific requirements and all other generally applicable*
39 *requirements.*

SEC. 16. Section 6051.8 of the Revenue and Taxation Code is amended to read:

6051.8. (a) Except as provided by Section 6357.3, in addition to the taxes imposed by this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 1.75 percent of the gross receipts of any retailer from the sale of all diesel fuel, as defined in Section 60022, sold at retail in this state on and after the operative date of this subdivision: *fuel*.

~~(b) Notwithstanding subdivision (a), for the 2011–12 fiscal year only, the rate referenced in subdivision (a) shall be 1.87 percent.~~

~~(c) Notwithstanding subdivision (a), for the 2012–13 fiscal year only, the rate referenced in subdivision (a) shall be 2.17 percent.~~

~~(d) Notwithstanding subdivision (a), for the 2013–14 fiscal year only, the rate referenced in subdivision (a) shall be 1.94 percent.~~

(b) Except as provided by Section 6357.3, in addition to the taxes imposed by this part and by subdivision (a), for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 4 percent of the gross receipts of any retailer from the sale of all diesel fuel, as defined in Section 60022, sold at retail in this state.

(c) Beginning July 1, 2020, and every third year thereafter, the State Board of Equalization shall recompute the rates of the taxes imposed by this section. That computation shall be made as follows:

(1) The Department of Finance shall transmit to the State Board of Equalization the percentage change in the California Consumer Price Index for all items from November of three calendar years prior to November of the prior calendar year, no later than January 31, 2020, and January 31 of every third year thereafter.

(2) The State Board of Equalization shall do all of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding tax rate per gallon by the inflation adjustment factor determined in subparagraph (A) and round off the resulting product to the nearest tenth of a cent.

(C) Make its determination of the new rate no later than March 1 of the same year as the effective date of the new rate.

~~(e)~~

(d) (1) Notwithstanding subdivision (b) of Section 7102, *except as otherwise provided in paragraph (2)*, all of the revenues, less refunds, collected pursuant to this section shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation *under the State Transit Assistance Program* pursuant to Section 99312.1 of the Public Utilities Code.

(2) *The revenues, less refunds, attributable to a rate of 0.5 percent of the 4-percent increase in the rate pursuant to subdivision (b), amounting to one-eighth of revenues from the increase in the rate under that subdivision, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation to the Department of Transportation, upon appropriation by the Legislature, to intercity rail and commuter rail purposes pursuant to Section 99315 of the Public Utilities Code.*

~~(f) Subdivisions (a) to (e), inclusive, shall become operative on July 1, 2011.~~

SEC. 17. Section 6201.8 of the Revenue and Taxation Code is amended to read:

6201.8. (a) Except as provided by Section 6357.3, in addition to the taxes imposed by this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of diesel fuel, as defined in Section 60022, at the rate of 1.75 percent of the sales price of the diesel fuel ~~on and after the operative date of this subdivision.~~ *fuel.*

~~(b) Notwithstanding subdivision (a), for the 2011–12 fiscal year only, the rate referenced in subdivision (a) shall be 1.87 percent.~~

~~(c) Notwithstanding subdivision (a), for the 2012–13 fiscal year only, the rate referenced in subdivision (a) shall be 2.17 percent.~~

~~(d) Notwithstanding subdivision (a), for the 2013–14 fiscal year only, the rate referenced in subdivision (a) shall be 1.94 percent.~~

(b) *Except as provided by Section 6357.3, in addition to the taxes imposed by this part and by subdivision (a), an excise tax is hereby imposed on the storage, use, or other consumption in this state of diesel fuel, as defined in Section 60022, at the rate of 4 percent of the sales price of the diesel fuel.*

1 (c) Beginning July 1, 2020, and every third year thereafter, the
2 State Board of Equalization shall recompute the rates of the taxes
3 imposed by this section. That computation shall be made as
4 follows:

5 (1) The Department of Finance shall transmit to the State Board
6 of Equalization the percentage change in the California Consumer
7 Price Index for all items from November of three calendar years
8 prior to November of the prior calendar year, no later than January
9 31, 2020, and January 31 of every third year thereafter.

10 (2) The State Board of Equalization shall do all of the following:

11 (A) Compute an inflation adjustment factor by adding 100
12 percent to the percentage change figure that is furnished pursuant
13 to paragraph (1) and dividing the result by 100.

14 (B) Multiply the preceding tax rate per gallon by the inflation
15 adjustment factor determined in subparagraph (A) and round off
16 the resulting product to the nearest tenth of a cent.

17 (C) Make its determination of the new rate no later than March
18 1 of the same year as the effective date of the new rate.

19 ~~(e)~~

20 (d) (1) Notwithstanding subdivision (b) of Section 7102, except
21 as otherwise provided in paragraph (2), all of the revenues, less
22 refunds, collected pursuant to this section shall be estimated by
23 the State Board of Equalization, with the concurrence of the
24 Department of Finance, and transferred quarterly to the Public
25 Transportation Account in the State Transportation Fund for
26 allocation pursuant to Section 99312.1 of the Public Utilities Code.

27 (2) The revenues, less refunds, attributable to a rate of 0.5
28 percent of the 4-percent increase in the rate pursuant to subdivision
29 (b), amounting to one-eighth of revenues from the increase in the
30 rate under that subdivision, shall be estimated by the State Board
31 of Equalization, with the concurrence of the Department of
32 Finance, and transferred quarterly to the Public Transportation
33 Account in the State Transportation Fund for allocation to the
34 Department of Transportation, upon appropriation by the
35 Legislature, to intercity rail and commuter rail purposes pursuant
36 to Section 99315 of the Public Utilities Code.

37 ~~(f) Subdivisions (a) to (e), inclusive, shall become operative on~~
38 ~~July 1, 2011.~~

39 SEC. 18. Section 7360 of the Revenue and Taxation Code is
40 amended to read:

1 7360. (a) (1) (A) A tax of eighteen cents (\$0.18) is hereby
2 imposed upon each gallon of fuel subject to the tax in Sections
3 7362, 7363, and 7364.

4 (B) *In addition to the tax imposed pursuant to subparagraph*
5 *(A), a tax of six cents (\$0.06) is hereby imposed upon each gallon*
6 *of fuel, other than aviation gasoline, subject to the tax in Sections*
7 *7362, 7363, and 7364. Effective one year after the date that the*
8 *six-cent (\$0.06) tax is imposed, an additional tax of three cents*
9 *(\$0.03) is hereby imposed, and effective two years after the date*
10 *that the six-cent (\$0.06) tax is imposed, an additional tax of three*
11 *cents (\$0.03) is hereby imposed, on each gallon of fuel, other than*
12 *aviation gasoline, subject to the tax in Sections 7362, 7363, and*
13 *7364.*

14 (2) If the federal fuel tax is reduced below the rate of nine cents
15 (\$0.09) per gallon and federal financial allocations to this state for
16 highway and exclusive public mass transit guideway purposes are
17 reduced or eliminated correspondingly, the tax rate imposed by
18 *subparagraph (A) of paragraph (1)*, on and after the date of the
19 reduction, shall be recalculated by an amount so that the combined
20 state rate under *subparagraph (A) of paragraph (1)* and the federal
21 tax rate per gallon equal twenty-seven cents (\$0.27).

22 (3) If any person or entity is exempt or partially exempt from
23 the federal fuel tax at the time of a reduction, the person or entity
24 shall continue to be so exempt under this section.

25 (b) ~~(1)~~—On and after July 1, 2010, in addition to the tax imposed
26 by subdivision (a), a tax is hereby imposed upon each gallon of
27 motor vehicle fuel, other than aviation gasoline, subject to the tax
28 in Sections 7362, 7363, and 7364 in an amount equal to seventeen
29 and three-tenths cents (\$0.173) per gallon.

30 ~~(2) For the 2011–12 fiscal year and each fiscal year thereafter,~~
31 ~~the board shall, on or before March 1 of the fiscal year immediately~~
32 ~~preceding the applicable fiscal year, adjust the rate in paragraph~~
33 ~~(1) in that manner as to generate an amount of revenue that will~~
34 ~~equal the amount of revenue loss attributable to the exemption~~
35 ~~provided by Section 6357.7, based on estimates made by the board,~~
36 ~~and that rate shall be effective during the state's next fiscal year.~~

37 ~~(3) In order to maintain revenue neutrality for each year,~~
38 ~~beginning with the rate adjustment on or before March 1, 2012,~~
39 ~~the adjustment under paragraph (2) shall also take into account the~~
40 ~~extent to which the actual amount of revenues derived pursuant to~~

~~this subdivision and, as applicable, Section 7361.1, the revenue loss attributable to the exemption provided by Section 6357.7 resulted in a net revenue gain or loss for the fiscal year ending prior to the rate adjustment date on or before March 1.~~

~~(4) The intent of paragraphs (2) and (3) is to ensure that the act adding this subdivision and Section 6357.7 does not produce a net revenue gain in state taxes.~~

(c) Beginning July 1, 2020, and every third year thereafter, the State Board of Equalization shall recompute the rates of the taxes imposed by this section. That computation shall be made as follows:

(1) The Department of Finance shall transmit to the State Board of Equalization the percentage change in the California Consumer Price Index for all items from November of three calendar years prior to November of the prior calendar year, no later than January 31, 2020, and January 31 of every third year thereafter.

(2) The State Board of Equalization shall do all of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding tax rate per gallon by the inflation adjustment factor determined in subparagraph (A) and round off the resulting product to the nearest tenth of a cent.

(C) Make its determination of the new rate no later than March 1 of the same year as the effective date of the new rate.

SEC. 19. Section 8352.4 of the Revenue and Taxation Code is amended to read:

8352.4. (a) Subject to Sections 8352 and 8352.1, and except as otherwise provided in subdivision (b), there shall be transferred from the money deposited to the credit of the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund, for expenditure in accordance with Division 1 (commencing with Section 30) of the Harbors and Navigation Code, the sum of six million six hundred thousand dollars (\$6,600,000) per annum, representing the amount of money in the Motor Vehicle Fuel Account attributable to taxes imposed on distributions of motor vehicle fuel used or usable in propelling vessels. The actual amount shall be calculated using the annual reports of registered boats prepared by the Department of Motor Vehicles for the United States Coast Guard and the formula and method of the December

1 1972 report prepared for this purpose and submitted to the
2 Legislature on December 26, 1972, by the Director of
3 Transportation. If the amount transferred during each fiscal year
4 is in excess of the calculated amount, the excess shall be
5 retransferred from the Harbors and Watercraft Revolving Fund to
6 the Motor Vehicle Fuel Account. If the amount transferred is less
7 than the amount calculated, the difference shall be transferred from
8 the Motor Vehicle Fuel Account to the Harbors and Watercraft
9 Revolving Fund. No adjustment shall be made if the computed
10 difference is less than fifty thousand dollars (\$50,000), and the
11 amount shall be adjusted to reflect any temporary or permanent
12 increase or decrease that may be made in the rate under the Motor
13 Vehicle Fuel Tax Law. Payments pursuant to this section shall be
14 made prior to payments pursuant to Section 8352.2.

15 (b) (1) Commencing July 1, ~~2016~~, 2017, the revenues
16 attributable to the taxes imposed pursuant to subdivision (b) of
17 Section 7360 and ~~Section 7361.1~~ and otherwise to be deposited in
18 the Harbors and Watercraft Revolving Fund pursuant to subdivision
19 (a) shall instead be transferred to the ~~General Fund~~. The revenues
20 attributable to the taxes imposed *Highway Users Tax Account for*
21 *distribution* pursuant to subdivision (b) of Section 7360 and Section
22 ~~7361.1~~ that were deposited in *Section 2103.1 of the Harbors Streets*
23 *and Watercraft Revolving Fund in the 2010-11 and 2011-12 fiscal*
24 *years shall be transferred to the General Fund. Highways Code.*

25 (2) *Commencing July 1, 2017, the revenues attributable to the*
26 *taxes imposed pursuant to subparagraph (B) of paragraph (1) of*
27 *subdivision (a) of Section 7360 and otherwise to be deposited in*
28 *the Harbors and Watercraft Revolving Fund pursuant to*
29 *subdivision (a) shall instead be transferred to the Road*
30 *Maintenance and Rehabilitation Account pursuant to Section 2031*
31 *of the Streets and Highways Code.*

32 SEC. 20. Section 8352.5 of the Revenue and Taxation Code
33 is amended to read:

34 8352.5. (a) (1) Subject to Sections 8352 and 8352.1, and
35 except as otherwise provided in subdivision (b), there shall be
36 transferred from the money deposited to the credit of the Motor
37 Vehicle Fuel Account to the Department of Food and Agriculture
38 Fund, during the second quarter of each fiscal year, an amount
39 equal to the estimate contained in the most recent report prepared
40 pursuant to this section.

(2) The amounts are not subject to Section 6357 with respect to the collection of sales and use taxes thereon, and represent the portion of receipts in the Motor Vehicle Fuel Account during a calendar year that were attributable to agricultural off-highway use of motor vehicle fuel which is subject to refund pursuant to Section 8101, less gross refunds allowed by the Controller during the fiscal year ending June 30th 30 following the calendar year to persons entitled to refunds for agricultural off-highway use pursuant to Section 8101. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

(b) (1) Commencing July 1, 2016, 2017, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 and otherwise to be deposited in the Department of Food and Agriculture Fund pursuant to subdivision (a) shall instead be transferred to the General Fund. The revenues attributable to the taxes imposed Highway Users Tax Account for distribution pursuant to subdivision (b) of Section 7360 and Section 7361.1 that were deposited in the Department Section 2103.1 of Food and Agriculture Fund in the 2010-11 Streets and 2011-12 fiscal years shall be transferred to the General Fund. Highways Code.

(2) Commencing July 1, 2017, the revenues attributable to the taxes imposed pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 7360 and otherwise to be deposited in the Department of Food and Agriculture Fund pursuant to subdivision (a) shall instead be transferred to the Road Maintenance and Rehabilitation Account pursuant to Section 2031 of the Streets and Highways Code.

(c) On or before September 30, 2012, and on or before September 30 of each even-numbered year thereafter, the Director of Transportation and the Director of Food and Agriculture shall jointly prepare, or cause to be prepared, a report setting forth the current estimate of the amount of money in the Motor Vehicle Fuel Account attributable to agricultural off-highway use of motor vehicle fuel, which is subject to refund pursuant to Section 8101 less gross refunds allowed by the Controller to persons entitled to refunds for agricultural off-highway use pursuant to Section 8101; and they shall submit a copy of the report to the Legislature.

SEC. 21. Section 8352.6 of the Revenue and Taxation Code is amended to read:

8352.6. (a) (1) Subject to Section 8352.1, and except as otherwise provided in paragraphs (2) and (3), on the first day of every month, there shall be transferred from moneys deposited to the credit of the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code an amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.

(2) (A) Commencing July 1, ~~2016~~, 2017, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and ~~Section 7361.1~~ and otherwise to be deposited in the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) shall instead be transferred to the ~~General Fund~~. ~~The revenues attributable to the taxes imposed~~ *Highway Users Tax Account for distribution pursuant to subdivision (b) of Section 7360 and Section 7361.1 that were deposited in Section 2103.1 of the Off-Highway Vehicle Trust Fund in the 2010–11 Streets and 2011–12 fiscal years shall be transferred to the General Fund. Highways Code.*

(B) *Commencing July 1, 2017, the revenues attributable to the taxes imposed pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 7360 and otherwise to be deposited in the Off-Highway Vehicle Trust Fund pursuant to subdivision (a) shall instead be transferred to the Road Maintenance and Rehabilitation Account pursuant to Section 2031 of the Streets and Highways Code.*

(3) The Controller shall withhold eight hundred thirty-three thousand dollars (\$833,000) from the monthly transfer to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1), and transfer that amount to the General Fund.

(b) The amount transferred to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) of subdivision (a), as a percentage of the Motor Vehicle Fuel Account, shall be equal to the percentage transferred in the 2006–07 fiscal year. Every five years, starting in the 2013–14 fiscal year, the percentage transferred may be adjusted by the Department of Transportation in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles. Adjustments shall be based on, but not limited

1 to, the changes in the following factors since the 2006–07 fiscal
2 year or the last adjustment, whichever is more recent:

3 (1) The number of vehicles registered as off-highway motor
4 vehicles as required by Division 16.5 (commencing with Section
5 38000) of the Vehicle Code.

6 (2) The number of registered street-legal vehicles that are
7 anticipated to be used off highway, including four-wheel drive
8 vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

9 (3) Attendance at the state vehicular recreation areas.

10 (4) Off-highway recreation use on federal lands as indicated by
11 the United States Forest Service’s National Visitor Use Monitoring
12 and the United States Bureau of Land Management’s Recreation
13 Management Information System.

14 (c) It is the intent of the Legislature that transfers from the Motor
15 Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund
16 should reflect the full range of motorized vehicle use off highway
17 for both motorized recreation and motorized off-road access to
18 other recreation opportunities. Therefore, the Legislature finds that
19 the fuel tax baseline established in subdivision (b), attributable to
20 off-highway estimates of use as of the 2006–07 fiscal year,
21 accounts for the three categories of vehicles that have been found
22 over the years to be users of fuel for off-highway motorized
23 recreation or motorized access to nonmotorized recreational
24 pursuits. These three categories are registered off-highway
25 motorized vehicles, registered street-legal motorized vehicles used
26 off highway, and unregistered off-highway motorized vehicles.

27 (d) It is the intent of the Legislature that the off-highway motor
28 vehicle recreational use to be determined by the Department of
29 Transportation pursuant to paragraph (2) of subdivision (b) be that
30 usage by vehicles subject to registration under Division 3
31 (commencing with Section 4000) of the Vehicle Code, for
32 recreation or the pursuit of recreation on surfaces where the use
33 of vehicles registered under Division 16.5 (commencing with
34 Section 38000) of the Vehicle Code may occur.

35 (e) In the 2014–15 fiscal year, the Department of Transportation,
36 in consultation with the Department of Parks and Recreation and
37 the Department of Motor Vehicles, shall undertake a study to
38 determine the appropriate adjustment to the amount transferred
39 pursuant to subdivision (b) and to update the estimate of the amount
40 attributable to taxes imposed upon distributions of motor vehicle

1 fuel used in the operation of motor vehicles off highway and for
2 which a refund has not been claimed. The department shall provide
3 a copy of this study to the Legislature no later than January 1,
4 2016.

5 SEC. 22. Section 60050 of the Revenue and Taxation Code is
6 amended to read:

7 60050. (a) (1) A tax of ~~eighteen~~ *thirteen* cents ~~(\$0.18)~~ *(\$0.13)*
8 is hereby imposed upon each gallon of diesel fuel subject to the
9 tax in Sections 60051, 60052, and 60058.

10 (2) If the federal fuel tax is reduced below the rate of fifteen
11 cents (\$0.15) per gallon and federal financial allocations to this
12 state for highway and exclusive public mass transit guideway
13 purposes are reduced or eliminated correspondingly, the tax rate
14 imposed by paragraph ~~(1)~~, ~~including any reduction or adjustment~~
15 ~~pursuant to subdivision (b), on and after the date of the reduction,~~
16 *(1)* shall be increased by an amount so that the combined state rate
17 under paragraph (1) and the federal tax rate per gallon equal what
18 it would have been in the absence of the federal reduction.

19 (3) If any person or entity is exempt or partially exempt from
20 the federal fuel tax at the time of a reduction, the person or entity
21 shall continue to be exempt under this section.

22 ~~(b) (1) On July 1, 2011, the tax rate specified in paragraph (1)~~
23 ~~of subdivision (a) shall be reduced to thirteen cents (\$0.13) and~~
24 ~~every July 1 thereafter shall be adjusted pursuant to paragraphs~~
25 ~~(2) and (3).~~

26 ~~(2) For the 2012-13 fiscal year and each fiscal year thereafter,~~
27 ~~the board shall, on or before March 1 of the fiscal year immediately~~
28 ~~preceding the applicable fiscal year, adjust the rate reduction in~~
29 ~~paragraph (1) in that manner as to result in a revenue loss~~
30 ~~attributable to paragraph (1) that will equal the amount of revenue~~
31 ~~gain attributable to Sections 6051.8 and 6201.8, based on estimates~~
32 ~~made by the board, and that rate shall be effective during the state's~~
33 ~~next fiscal year.~~

34 ~~(3) In order to maintain revenue neutrality for each year,~~
35 ~~beginning with the rate adjustment on or before March 1, 2013,~~
36 ~~the adjustment under paragraph (2) shall take into account the~~
37 ~~extent to which the actual amount of revenues derived pursuant to~~
38 ~~Sections 6051.8 and 6201.8 and the revenue loss attributable to~~
39 ~~this subdivision resulted in a net revenue gain or loss for the fiscal~~

1 year ending prior to the rate adjustment date on or before March
2 1.

3 ~~(4) The intent of paragraphs (2) and (3) is to ensure that the act~~
4 ~~adding this subdivision and Sections 6051.8 and 6201.8 does not~~
5 ~~produce a net revenue gain in state taxes.~~

6 *(b) In addition to the tax imposed pursuant to subdivision (a),*
7 *an additional tax of twenty cents (\$0.20) is hereby imposed upon*
8 *each gallon of diesel fuel subject to the tax in Sections 60051,*
9 *60052, and 60058.*

10 *(c) Beginning July 1, 2020, and every third year thereafter, the*
11 *State Board of Equalization shall recompute the rates of the taxes*
12 *imposed by this section. That computation shall be made as*
13 *follows:*

14 *(1) The Department of Finance shall transmit to the State Board*
15 *of Equalization the percentage change in the California Consumer*
16 *Price Index for all items from November of three calendar years*
17 *prior to November of the prior calendar year, no later than January*
18 *31, 2020, and January 31 of every third year thereafter.*

19 *(2) The State Board of Equalization shall do all of the following:*

20 *(A) Compute an inflation adjustment factor by adding 100*
21 *percent to the percentage change figure that is furnished pursuant*
22 *to paragraph (1) and dividing the result by 100.*

23 *(B) Multiply the preceding tax rate per gallon by the inflation*
24 *adjustment factor determined in subparagraph (A) and round off*
25 *the resulting product to the nearest tenth of a cent.*

26 *(C) Make its determination of the new rate no later than March*
27 *1 of the same year as the effective date of the new rate.*

28 SEC. 23. Section 183.1 of the Streets and Highways Code is
29 amended to read:

30 183.1. ~~(a) Notwithstanding subdivision (a) of Section 182 or~~
31 ~~any other provision of law, Except as otherwise provided in Section~~
32 ~~54237.7 of the Government Code, money deposited into the account~~
33 ~~that is not subject to Article XIX of the California Constitution,~~
34 ~~including, but not limited to, money that is derived from the sale~~
35 ~~of documents, charges for miscellaneous services to the public,~~
36 ~~condemnation deposits fund investments, rental of state property,~~
37 ~~or any other miscellaneous uses of property or money, may be~~
38 ~~used for any transportation purpose authorized by statute, upon~~
39 ~~appropriation by the Legislature or, after transfer to another fund,~~
40 ~~upon appropriation by the Legislature from that fund. shall be~~

1 *deposited in the Road Maintenance and Rehabilitation Account*
2 *created pursuant to Section 2031.*

3 ~~(b) Commencing with the 2013-14 fiscal year, and not later~~
4 ~~than November 1 of each fiscal year thereafter, based on prior year~~
5 ~~financial statements, the Controller shall transfer the funds~~
6 ~~identified in subdivision (a) for the prior fiscal year from the State~~
7 ~~Highway Account to the Transportation Debt Service Fund in the~~
8 ~~State Transportation Fund, and those funds are continuously~~
9 ~~appropriated for the purposes specified for the Transportation Debt~~
10 ~~Service Fund.~~

11 SEC. 24. Section 820.1 is added to the Streets and Highways
12 Code, to read:

13 820.1. (a) The State of California consents to the jurisdiction
14 of the federal courts with regard to the compliance, discharge, or
15 enforcement of the responsibilities assumed by the department
16 pursuant to Section 326 of, and subsection (a) of Section 327 of,
17 Title 23 of the United States Code.

18 (b) In any action brought pursuant to the federal laws described
19 in subdivision (a), no immunity from suit may be asserted by the
20 department pursuant to the Eleventh Amendment to the United
21 States Constitution, and any immunity is hereby waived.

22 (c) The department shall not delegate any of its responsibilities
23 assumed pursuant to the federal laws described in subdivision (a)
24 to any political subdivision of the state or its instrumentalities.

25 (d) Nothing in this section affects the obligation of the
26 department to comply with state and federal law.

27 SEC. 25. Chapter 2 (commencing with Section 2030) is added
28 to Division 3 of the Streets and Highways Code, to read:

29
30 CHAPTER 2. ROAD MAINTENANCE AND REHABILITATION
31 PROGRAM
32

33 2030. (a) The Road Maintenance and Rehabilitation Program
34 is hereby created to address deferred maintenance on the state
35 highway system and the local street and road system. Funds made
36 available by the program shall be prioritized for expenditure on
37 basic road maintenance and road rehabilitation projects, and on
38 critical safety projects. For funds appropriated pursuant to
39 paragraph (1) of subdivision (d) of Section 2032, the California
40 Transportation Commission shall adopt performance criteria,

1 consistent with the asset management plan required pursuant to
2 14526.4 of the Government Code, to ensure efficient use of the
3 funds available for these purposes in the program.

4 (b) (1) Funds made available by the program shall be used for
5 projects that include, but are not limited to, the following:

6 (A) Road maintenance and rehabilitation.

7 (B) Safety projects.

8 (C) Railroad grade separations.

9 (D) Complete street components, including active transportation
10 purposes, pedestrian and bicycle safety projects, transit facilities,
11 and drainage and stormwater capture projects in conjunction with
12 any other allowable project.

13 (E) Traffic control devices.

14 (2) Funds made available by the program may also be used to
15 satisfy a match requirement in order to obtain state or federal funds
16 for projects authorized by this subdivision.

17 2031. The following revenues shall be deposited in the Road
18 Maintenance and Rehabilitation Account, which is hereby created
19 in the State Transportation Fund:

20 (a) Notwithstanding subdivision (b) of Section 2103, the portion
21 of the revenues in the Highway Users Tax Account attributable to
22 the increases in the motor vehicle fuel excise tax pursuant to
23 subparagraph (B) of paragraph (1) of subdivision (a) of Section
24 7360 of the Revenue and Taxation Code, as adjusted pursuant to
25 subdivision (c) of that section.

26 (b) The portion of revenues attributable to the increase in the
27 motor vehicle fuel excise tax pursuant to subparagraph (B) of
28 paragraph (1) of subdivision (a) of Section 7360 of the Revenue
29 and Taxation Code, as adjusted pursuant to subdivision (c) of that
30 section, and designated for the Road Maintenance and
31 Rehabilitation Account pursuant to paragraph (2) of subdivision
32 (b) of Section 8352.4 of, paragraph (2) of subdivision (b) of Section
33 8352.5 of, and subparagraph (B) paragraph (2) of subdivision (a)
34 of Section 8352.6 of, that code.

35 (c) The revenues from the increase in the vehicle registration
36 fee pursuant to Section 9250.3 of the Vehicle Code, as adjusted
37 pursuant to subdivision (b) of that section.

38 (d) The revenues from the increase in the vehicle registration
39 fee pursuant to Section 9250.6 of the Vehicle Code, as adjusted
40 pursuant to subdivision (b) of that section.

1 (e) The revenues deposited in the account pursuant to Section
2 183.1 of the Streets and Highways Code.

3 (f) Any other revenues designated for the program.

4 2031.5. Each fiscal year the annual Budget Act shall contain
5 an appropriation from the Road Maintenance and Rehabilitation
6 Account to the Controller for the costs of carrying out his or her
7 duties pursuant to this chapter and to the California Transportation
8 Commission for the costs of carrying out its duties pursuant to this
9 chapter and Section 14526.7 of the Government Code.

10 2032. (a) (1) After deducting the amounts appropriated in the
11 annual Budget Act, as provided in Section 2031.5, two hundred
12 million dollars (\$200,000,000) of the remaining revenues deposited
13 in the Road Maintenance and Rehabilitation Account shall be set
14 aside annually for counties that have sought and received voter
15 approval of taxes or that have imposed fees, including uniform
16 developer fees as defined by subdivision (b) of Section 8879.67
17 of the Government Code, which taxes or fees are dedicated solely
18 to transportation improvements. The Controller shall each month
19 set aside one-twelfth of this amount, to accumulate a total of two
20 hundred million dollars (\$200,000,000) in each fiscal year.

21 (2) Notwithstanding Section 13340 of the Government Code,
22 the funds available under this subdivision in each fiscal year are
23 hereby continuously appropriated for allocation to each eligible
24 county and each city in the county for road maintenance and
25 rehabilitation purposes pursuant to Section 2033.

26 (b) (1) After deducting the amounts appropriated in the annual
27 Budget Act pursuant to Section 2031.5 and the amount allocated
28 in subdivision (a), beginning in the 2017–18 fiscal year, eighty
29 million dollars (\$80,000,000) of the remaining revenues shall be
30 transferred annually to the State Highway Account for expenditure,
31 upon appropriation by the Legislature, on the Active Transportation
32 Program created pursuant to Chapter 8 (commencing with Section
33 2380) of Division 3 to be allocated by the California Transportation
34 Commission pursuant to Section 2381.

35 (2) In addition to the funds transferred in paragraph (1), the
36 department shall annually identify savings achieved through
37 efficiencies implemented at the department. The department,
38 through the annual budget process, shall propose, from the
39 identified savings, an appropriation to be included in the annual
40 Budget Act of up to seventy million dollars (\$70,000,000), but not

1 to exceed the total annual identified savings, from the State
2 Highway Account for expenditure on the Active Transportation
3 Program.

4 (c) After deducting the amounts appropriated in the annual
5 Budget Act pursuant to Section 2031.5, the amount allocated in
6 subdivision (a) and the amount transferred in paragraph (1) of
7 subdivision (b), in the 2017–18, 2018–19, 2019–20, and 2020–21
8 fiscal years, the sum of thirty million dollars (\$30,000,000) in each
9 fiscal year from the remaining revenues shall be transferred to the
10 Advance Mitigation Fund in the State Transportation Fund created
11 pursuant to Section 21207 of the Public Resources Code.

12 (d) After deducting the amounts appropriated in the annual
13 Budget Act pursuant to Section 2031.5, the amount allocated in
14 subdivision (a), and the amounts transferred in paragraph (1) of
15 subdivision (b) and in subdivision (c), beginning in the 2017–18
16 fiscal year and each fiscal year thereafter, and notwithstanding
17 Section 13340 of the Government Code, there is hereby
18 continuously appropriated to the California State University the
19 sum of two million dollars (\$2,000,000) from the remaining
20 revenues for the purpose of conducting transportation research and
21 transportation-related workforce education, training, and
22 development. Prior to the start of each fiscal year, the chairs of the
23 Assembly Committee on Transportation and the Senate Committee
24 on Transportation and Housing shall confer and set out a
25 recommended priority list of research components to be addressed
26 in the upcoming fiscal year.

27 (e) Notwithstanding Section 13340 of the Government Code,
28 the balance of the revenues deposited in the Road Maintenance
29 and Rehabilitation Account are hereby continuously appropriated
30 as follows:

31 (1) Fifty percent for allocation to the department for maintenance
32 of the state highway system or for purposes of the state highway
33 operation and protection program.

34 (2) Fifty percent for apportionment to cities and counties by the
35 Controller pursuant to the formula in clauses (i) and (ii) of
36 subparagraph (C) of paragraph (3) of subdivision (a) of Section
37 2103 for the purposes authorized by this chapter.

38 2033. (a) On or before January 1, 2018, the commission, in
39 cooperation with the department, transportation planning agencies,
40 county transportation commissions, and other local agencies, shall

1 develop guidelines for the allocation of funds pursuant to
2 subdivision (a) of Section 2032.

3 (b) The guidelines shall be the complete and full statement of
4 the policy, standards, and criteria that the commission intends to
5 use to determine how these funds will be allocated.

6 (c) The commission may amend the adopted guidelines after
7 conducting at least one public hearing.

8 2034. (a) (1) Prior to receiving an apportionment of funds
9 under the program pursuant to paragraph (2) of subdivision (e) of
10 Section 2032 from the Controller in a fiscal year, an eligible city
11 or county shall submit to the commission a list of projects proposed
12 to be funded with these funds pursuant to an adopted city or county
13 budget. All projects proposed to receive funding shall be included
14 in a city or county budget that is adopted by the applicable city
15 council or county board of supervisors at a regular public meeting.
16 The list of projects proposed to be funded with these funds shall
17 include a description and the location of each proposed project, a
18 proposed schedule for the project's completion, and the estimated
19 useful life of the improvement. The project list shall not limit the
20 flexibility of an eligible city or county to fund projects in
21 accordance with local needs and priorities so long as the projects
22 are consistent with subdivision (b) of Section 2030.

23 (2) The commission shall report to the Controller the cities and
24 counties that have submitted a list of projects as described in this
25 subdivision and that are therefore eligible to receive an
26 apportionment of funds under the program for the applicable fiscal
27 year. The Controller, upon receipt of the report, shall apportion
28 funds to eligible cities and counties.

29 (b) For each fiscal year, each city or county receiving an
30 apportionment of funds shall, upon expending program funds,
31 submit documentation to the commission that includes a description
32 and location of each completed project, the amount of funds
33 expended on the project, the completion date, and the estimated
34 useful life of the improvement.

35 2036. (a) Cities and counties shall maintain their existing
36 commitment of local funds for street, road, and highway purposes
37 in order to remain eligible for an allocation or apportionment of
38 funds pursuant to Section 2032.

39 (b) In order to receive an allocation or apportionment pursuant
40 to Section 2032, the city or county shall annually expend from its

1 general fund for street, road, and highway purposes an amount not
2 less than the annual average of its expenditures from its general
3 fund during the 2009–10, 2010–11, and 2011–12 fiscal years, as
4 reported to the Controller pursuant to Section 2151. For purposes
5 of this subdivision, in calculating a city’s or county’s annual
6 general fund expenditures and its average general fund expenditures
7 for the 2009–10, 2010–11, and 2011–12 fiscal years, any
8 unrestricted funds that the city or county may expend at its
9 discretion, including vehicle in-lieu tax revenues and revenues
10 from fines and forfeitures, expended for street, road, and highway
11 purposes shall be considered expenditures from the general fund.
12 One-time allocations that have been expended for street and
13 highway purposes, but which may not be available on an ongoing
14 basis, including revenue provided under the Teeter Plan Bond Law
15 of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1
16 of Division 2 of Title 5 of the Government Code), may not be
17 considered when calculating a city’s or county’s annual general
18 fund expenditures.

19 (c) For any city incorporated after July 1, 2009, the Controller
20 shall calculate an annual average expenditure for the period
21 between July 1, 2009, and December 31, 2015, inclusive, that the
22 city was incorporated.

23 (d) For purposes of subdivision (b), the Controller may request
24 fiscal data from cities and counties in addition to data provided
25 pursuant to Section 2151, for the 2009–10, 2010–11, and 2011–12
26 fiscal years. Each city and county shall furnish the data to the
27 Controller not later than 120 days after receiving the request. The
28 Controller may withhold payment to cities and counties that do
29 not comply with the request for information or that provide
30 incomplete data.

31 (e) The Controller may perform audits to ensure compliance
32 with subdivision (b) when deemed necessary. Any city or county
33 that has not complied with subdivision (b) shall reimburse the state
34 for the funds it received during that fiscal year. Any funds withheld
35 or returned as a result of a failure to comply with subdivision (b)
36 shall be reapportioned to the other counties and cities whose
37 expenditures are in compliance.

38 (f) If a city or county fails to comply with the requirements of
39 subdivision (b) in a particular fiscal year, the city or county may
40 expend during that fiscal year and the following fiscal year a total

1 amount that is not less than the total amount required to be
2 expended for those fiscal years for purposes of complying with
3 subdivision (b).

4 2037. A city or county may spend its apportionment of funds
5 under the program on transportation priorities other than those
6 allowable pursuant to this chapter if the city's or county's average
7 Pavement Condition Index meets or exceeds 80.

8 2038. (a) The department and local agencies, as a condition
9 of receiving funds from the program, shall adopt and implement
10 a program designed to promote and advance construction
11 employment and training opportunities through preapprenticeship
12 opportunities, either by the public agency itself or through
13 contractors engaged by the public agencies to do work funded in
14 whole or in part by funds made available by the program.

15 (b) The department and local agencies, as a condition of
16 receiving funds from the program, shall ensure the involvement
17 of the California Conservation Corps and certified community
18 conservation corps in the delivery of projects and services funded
19 in whole or in part by funds made available by the program.

20 SEC. 26. Section 2103.1 is added to the Streets and Highways
21 Code, to read:

22 2103.1. (a) Notwithstanding Section 2103, the revenues
23 transferred to the Highway Users Tax Account pursuant to Sections
24 8352.4, 8352.5, and 8352.6 of the Revenue and Taxation Code
25 shall be distributed pursuant to the formula in paragraph (3) of
26 subdivision (a) of Section 2103.

27 (b) Notwithstanding subdivision (b) of Section 2103, the portion
28 of revenues in the Highway Users Tax Account attributable to the
29 increases in the motor vehicle fuel excise tax pursuant to
30 subparagraph (B) of paragraph (1) of subdivision (a) of Section
31 7360 of the Revenue and Taxation Code, as adjusted pursuant to
32 subdivision (c) of that section, shall be transferred to the Road
33 Maintenance and Rehabilitation Account pursuant to Section 2031.

34 (c) Notwithstanding subdivision (b) of Section 2103, the portion
35 of revenues in the Highway Users Tax Account attributable to the
36 increase in the diesel fuel excise tax pursuant to subdivision (b)
37 of Section 60050 of the Revenue and Taxation Code, as adjusted
38 pursuant to subdivision (c) of that section, shall be transferred to
39 the Trade Corridors Improvement Fund pursuant to Section 2192.4.

SEC. 27. Section 2192 of the Streets and Highways Code is amended to read:

2192. (a) (1) The Trade Corridors Improvement Fund, created pursuant to subdivision (c) of Section 8879.23 of the Government Code, is hereby continued in existence to receive revenues from state sources other than the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006. ~~This chapter shall govern expenditure of those other revenues.~~

(2) Revenues apportioned to the state under Section 167 of Title 23 of the United States Code from the national highway freight program, pursuant to the federal Fixing America's Surface Transportation Act ("FAST Act," Public Law 114-94) shall be allocated for projects approved pursuant to this chapter.

(b) This chapter shall govern the expenditure of those state and federal revenues described in subdivision (a).

~~(b) The moneys in the fund from these other sources~~

(c) The funding described in subdivision (a) shall be available upon appropriation for allocation by the California Transportation Commission for infrastructure improvements in this state on federally designated Trade Corridors of National and Regional Significance, on the Primary Freight Network, and along other corridors that have a high volume of freight movement, as determined by the ~~commission~~ *commission and as identified in the state freight plan developed and adopted pursuant to Section 13978.8 of the Government Code. In determining prioritizing the projects eligible for funding, the commission shall consult the Transportation Agency's state freight plan as described in Section 13978.8 of the Government Code, the State Air Resources Board's Sustainable Freight Strategy adopted by Resolution 14-2, and the trade infrastructure and goods movement plan submitted to the commission by the Secretary of Transportation and the Secretary for Environmental Protection. The commission shall also consult California Sustainable Freight Action Plan released in July 2016 pursuant to Executive Order B-32-15, trade infrastructure and goods movement plans adopted by regional transportation planning agencies, adopted regional transportation plans required by state and federal law, and the statewide applicable port master plan when determining eligible projects for funding. plan. Eligible projects for the funding described in subdivision (a) shall further the state's economic, environmental, and public health objectives*

1 *and goals for freight policy, as articulated in the plans to be*
2 *consulted pursuant to this subdivision. Eligible projects for these*
3 ~~*funds include, but are not limited to, all of the following: are as*~~
4 ~~*follows:*~~

5 (1) ~~Highway~~ *Highway, local road, and rail capital and capacity*
6 *improvements, rail landside access improvements, landside freight*
7 *access improvements to airports, seaports, and land ports, and*
8 *operational improvements to more efficiently accommodate the*
9 *movement of freight, particularly for ingress and egress to and*
10 *from the state's land ports of entry entry, rail terminals, and*
11 *seaports, including navigable inland waterways used to transport*
12 *freight between seaports, land ports of entry, and airports, and to*
13 *relieve traffic congestion along major trade or goods movement*
14 *corridors.*

15 (2) *Freight rail system improvements to enhance the ability to*
16 *move goods from seaports, land ports of entry, and airports to*
17 *warehousing and distribution centers throughout California,*
18 *including projects that separate rail lines from highway or local*
19 *road traffic, improve freight rail mobility through mountainous*
20 *regions, relocate rail switching yards, and other projects that*
21 *improve the efficiency and capacity of the rail freight system.*

22 ~~(3) *Projects to enhance the capacity and efficiency of ports.*~~

23 (3) *Infrastructure improvement projects to enhance the capacity*
24 *and efficiency of ports without having the effect of displacing*
25 *workers in port operations.*

26 (4) *Truck corridor and capital and operational improvements,*
27 ~~*including including, but not limited to,*~~ *dedicated truck facilities*
28 *or truck toll facilities.*

29 (5) ~~*Border access capital and operational improvements that*~~
30 *enhance goods movement between California and Mexico and that*
31 *maximize the state's ability to access coordinated border*
32 ~~*infrastructure funds made available to the state by federal law.*~~

33 (6) *Surface transportation and connector road capital and*
34 *operational improvements to effectively facilitate the movement*
35 *of goods, particularly for ingress and egress to and from the state's*
36 *land ports of entry, airports, and seaports, to relieve traffic*
37 *congestion along major trade or goods movement corridors.*

38 ~~(e) (1) *The*~~

39 (d) (1) ~~*Except as provided in paragraph (2),*~~ *In evaluating the*
40 *program of projects to be funded with funds described in paragraph*

(2) of subdivision (a), the commission shall evaluate the total potential economic and noneconomic benefits of the program of projects to California's economy, environment, and public health. The commission shall consult with the agencies identified in Executive Order B-32-15 and metropolitan planning organizations in order to utilize the appropriate models, techniques, and methods to develop the parameters for evaluating the program of projects. The commission shall allocate ~~funds~~ the funding described in paragraph (2) of subdivision (a) for trade infrastructure improvements ~~from the fund~~ consistent with Section 8879.52 of the Government Code and the Trade Corridors Improvement Fund (TCIF) Guidelines adopted by the commission on November 27, 2007, or as amended by the commission, and in a manner that (A) addresses the state's most urgent needs, (B) balances the demands of various land ports of entry, seaports, and airports, (C) provides reasonable geographic balance between the state's regions, ~~and~~ (D) places emphasis on projects that improve trade corridor mobility and safety while reducing emissions of diesel particulate and other pollutant ~~emissions~~, emissions and reducing other negative community impacts, and (E) makes a significant contribution to the state's economy.

(2) The commission shall allocate the federal freight funding, specifically, pursuant to the original TCIF Guidelines, as adopted by the commission on November 27, 2007, and in the manner described in (A) to (E), inclusive, of paragraph (1).

(A) One hundred fifty million dollars (\$150,000,000) shall be dedicated exclusively to fund improvements to California's existing or planned land ports of entry on the border with Mexico. The department, in consultation with the San Diego Association of Governments and the Imperial County Transportation Commission, shall nominate a program of projects for funding allocations that make border capital and operational improvements to enhance goods movement between California and Mexico and contribute to the reduction of emissions.

(B) Seventy million dollars (\$70,000,000) shall be dedicated exclusively to fund projects for the elimination, alteration, or improvement of hazardous railroad-highway grade crossings. Projects shall be jointly nominated by the department and a regional transportation agency.

1 (C) Three hundred sixty million dollars (\$360,000,000) shall
2 be available for projects nominated by regional transportation
3 agencies and other public agencies, including counties, cities, and
4 port authorities, in consultation with the department, and consistent
5 with corridor-based programming targets contained in the Trade
6 Corridors Investment Fund (TCIF) Guidelines adopted by the
7 commission on November 27, 2007, or as amended by the
8 commission, to provide reasonable geographic targets for funding
9 allocations without constraining what an agency may propose or
10 what the commission may approve. However, the San Diego
11 Association of Governments, the Imperial County Transportation
12 Commission, and other public agencies in San Diego and Imperial
13 Counties shall be excluded from nominating projects under this
14 subparagraph.

15 (2) The commission shall proportionately adjust the amounts
16 in subparagraphs (A), (B), and (C) of paragraph (1) if the amount
17 of funds described in paragraph (2) of subdivision (a) is less than
18 or greater than five hundred eighty million dollars (\$580,000,000).

19 (3) The commission shall adopt guidelines to allocate the
20 funding described in subdivision (a) for trade infrastructure
21 improvements in a manner that (A) addresses the state's most
22 urgent needs, (B) balances the demands of various land ports of
23 entry, seaports, and airports, (C) provides reasonable geographic
24 balance between the state's regions, (D) places emphasis on
25 projects that improve trade corridor mobility and safety while
26 reducing emissions of diesel particulates, greenhouse gases, and
27 other pollutants and reducing other negative community impacts,
28 and (E) makes a significant contribution to the state's economy.
29 The commission shall adopt any amendments to the 2007 guidelines
30 on or before April 1, 2017.

31 (4) In adopting amended guidelines, and developing and
32 adopting the program of projects, the commission shall do all of
33 the following:

34 (A) Accept nominations for projects to be included in the
35 program of projects from regional and local transportation
36 agencies and the department.

37 (B) Recognize the key role of the state in project identification
38 and support integrating statewide goods movement priorities into
39 the corridor approach.

1 (C) Give the highest priority for funding allocations to projects
2 jointly nominated by the department and a regional or other public
3 agency.

4 ~~(3)~~

5 (5) In addition, the commission shall also consider the following
6 factors when allocating ~~these funds~~: *funds under this section*:

7 (A) “Velocity,” which means the speed by which large cargo
8 would travel from the land port of entry or seaport through the
9 distribution system.

10 (B) “Throughput,” which means the volume of cargo that would
11 move from the land port of entry or seaport through the distribution
12 system.

13 (C) “Reliability,” which means a reasonably consistent and
14 predictable amount of time for cargo to travel from one point to
15 another on any given day or at any given time in California.

16 (D) “Congestion reduction,” which means the reduction in
17 recurrent daily hours of delay to be achieved.

18 SEC. 28. Section 2192.2 of the Streets and Highways Code is
19 amended to read:

20 2192.2. The commission shall allocate funds made available
21 by this chapter to projects that have identified and committed
22 supplemental funding from appropriate local, federal, or private
23 sources. The commission shall determine the appropriate amount
24 of supplemental funding each project should have to be eligible
25 for moneys ~~from the fund~~ based on a project-by-project review
26 and an assessment of the project’s benefit to the state and the
27 program. ~~Except for border access~~ *Funded* improvements ~~described~~
28 ~~in paragraph (5) of subdivision (b) of Section 2192, improvements~~
29 ~~funded with moneys from the fund~~ shall have supplemental funding
30 that is at least equal to the amount of the contribution ~~from the~~
31 ~~fund~~. *under this chapter*. The commission may give priority for
32 funding to projects with higher levels of committed supplemental
33 funding.

34 SEC. 29. Section 2192.4 is added to the Streets and Highways
35 Code, to read:

36 2192.4. The portion of the revenues in the Highway Users Tax
37 Account attributable to the increase in the diesel fuel excise tax
38 pursuant to subdivision (b) of Section 60050 of the Revenue and
39 Taxation Code, as adjusted pursuant to subdivision (c) of that

1 section, shall be transferred to the Trade Corridors Improvement
2 Fund.

3 SEC. 30. Section 9250.3 is added to the Vehicle Code, to read:

4 9250.3. (a) In addition to any other fees specified in this code
5 or the Revenue and Taxation Code, commencing October 1, 2017,
6 a registration fee of thirty-eight dollars (\$38) shall be paid to the
7 department for registration or renewal of registration of every
8 vehicle subject to registration under this code, except those vehicles
9 that are expressly exempted under this code from payment of
10 registration fees.

11 (b) Beginning October 1, 2020, and every third year thereafter,
12 the Department of Motor Vehicles shall adjust the fee imposed
13 under this section for inflation in an amount equal to the change
14 in the California Consumer Price Index for the prior three-year
15 period, as calculated by the Department of Finance, with amounts
16 equal to or greater than fifty cents (\$0.50) rounded to the next
17 highest whole dollar.

18 (c) Revenues from the fee, after the deduction of the
19 department's administrative costs related to this section, shall be
20 deposited in the Road Maintenance and Rehabilitation Account
21 created pursuant to Section 2031 of the Streets and Highways
22 Code.

23 SEC. 31. Section 9250.6 is added to the Vehicle Code, to read:

24 9250.6. (a) In addition to any other fees specified in this code,
25 or the Revenue and Taxation Code, commencing October 1, 2017,
26 a registration fee of one hundred dollars (\$100) shall be paid to
27 the department for registration or renewal of registration of every
28 zero-emission motor vehicle subject to registration under this code,
29 except those motor vehicles that are expressly exempted under
30 this code from payment of registration fees.

31 (b) Beginning October 1, 2020, and every third year thereafter,
32 the Department of Motor Vehicles shall adjust the fee imposed
33 under this section for inflation in an amount equal to the change
34 in the California Consumer Price Index for the prior three-year
35 period, as calculated by the Department of Finance, with amounts
36 equal to or greater than fifty cents (\$0.50) rounded to the next
37 highest whole dollar.

38 (c) Revenues from the fee, after deduction of the department's
39 administrative costs related to this section, shall be deposited in

1 the Road Maintenance and Rehabilitation Account created pursuant
2 to Section 2031 of the Streets and Highways Code.

3 (d) This section does not apply to a commercial motor vehicle
4 subject to Section 9400.1.

5 (e) The registration fee required pursuant to this section does
6 not apply to the initial registration after the purchase of a new
7 zero-emission motor vehicle.

8 (f) For purposes of this section, “zero-emission motor vehicle”
9 means a motor vehicle as described in subdivisions (c) and (d) of
10 Section 44258 of the Health and Safety Code, or any other motor
11 vehicle that is able to operate on any fuel other than gasoline or
12 diesel fuel.

13 SEC. 32. Section 9400.5 is added to the Vehicle Code, to read:

14 9400.5. (a) Notwithstanding Sections 9400.1, 9400.4, and
15 42205 of this code, Sections 16773 and 16965 of the Government
16 Code, Section 2103 of the Streets and Highways Code, or any
17 other law, weight fee revenues shall only be transferred consistent
18 with the schedule provided in subdivision (b) from the State
19 Highway Account to the Transportation Debt Service Fund, the
20 Transportation Bond Direct Payment Account, or any other fund
21 or account for the purpose of payment of the debt service on
22 transportation general obligation bonds and shall not be loaned to
23 the General Fund.

24 (b) (1) The transfer of weight fee revenues, after deduction of
25 collection costs, from the State Highway Account pursuant to
26 subdivision (a) shall not exceed:

27 (A) Ninety percent of the total weight fees in the 2017–18 fiscal
28 year.

29 (B) Eighty percent of the total weight fees in the 2018–19 fiscal
30 year.

31 (C) Seventy percent of the total weight fees in the 2019–20
32 fiscal year.

33 (D) Sixty percent of the total weight fees in the 2020–21 fiscal
34 year.

35 (E) Fifty percent of the total weight fees in 2021–22 and
36 subsequent fiscal years.

37 (2) The California Transportation Commission, on or before
38 January 1, 2018, shall recommend a course of action to the
39 Legislature and the Governor that would provide for the portion
40 of weight fees described in subparagraph (E) of paragraph (1) to

be retained in the State Highway Account or transferred to the Road Maintenance and Rehabilitation Account created pursuant to Section 2031.

SEC. 33. The increases in tax rates in Sections 6051.8, 6201.8, 7360, and 60050 of the Revenue and Taxation Code, as amended by this act, shall become effective on July 1, 2017.

SEC. 34. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide additional funding for road maintenance and rehabilitation purposes as quickly as possible, it is necessary for this act to take effect immediately.

CORRECTIONS:

Heading—Line 3.

Introduced by Senator Hill
(Principal coauthor: Assembly Member Low)

December 29, 2016

An act to amend Section 23220 of, and to add Section 23219 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 65, as introduced, Hill. Vehicles: alcohol and marijuana: penalties.

Existing law makes it an infraction to drink any alcoholic beverage while driving a motor vehicle upon any highway or on other specified lands.

This bill would instead make driving or operating a vehicle upon any highway or specified lands, or driving or operating a boat, vessel, or aircraft while drinking any alcoholic beverage, punishable as either an infraction or a misdemeanor. The bill would also make driving or operating a vehicle, boat, vessel, or aircraft while smoking or ingesting marijuana or marijuana products an offense punishable as an infraction or a misdemeanor. The bill would authorize a court to order a defendant to attend drug or alcohol education and counseling classes in addition to those penalties.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 23219 is added to the Vehicle Code, to read:

23219. (a) A person shall not drive or operate a vehicle, boat, vessel, or aircraft while smoking or ingesting marijuana or marijuana products.

(b) (1) A violation of subdivision (a) may be punished as an infraction or a misdemeanor.

(2) The court may order a defendant convicted of a misdemeanor and sentenced to a term of imprisonment in a county jail to be imprisoned on days other than days of regular employment for the defendant, as determined by the court.

(c) In addition to the penalties specified in subdivision (b), the court may, in its discretion, order the defendant to attend drug education and counseling classes.

SEC. 2. Section 23220 of the Vehicle Code is amended to read:

23220. (a) ~~No person shall~~ *A person shall not* drink any alcoholic beverage while driving ~~a motor~~ *or operating a boat, vessel, or aircraft, or while driving or operating a vehicle* upon any highway or on any lands described in subdivision (b).

(b) As used in subdivision (a), “lands” means those lands to which the Chappie-Z’berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

(c) (1) *A violation of subdivision (a) may be punished as an infraction or a misdemeanor.*

(2) *The court may order a defendant convicted of a misdemeanor and sentenced to a term of imprisonment in a county jail to be imprisoned on days other than days of regular employment for the defendant, as determined by the court.*

(d) *In addition to the penalties specified in subdivision (b), the court may, in its discretion, order the defendant to attend alcohol education and counseling classes.*

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

O

ASSEMBLY BILL**No. 1**

Introduced by Assembly Member Frazier
(Coauthors: Assembly Members Low, Mullin, and Santiago)

December 5, 2016

An act to amend Sections 13975, 14500, 14526.5, and 16965 of, to add Sections 14033, 14526.7, and 16321 to, to add Part 5.1 (commencing with Section 14460) to Division 3 of Title 2 of, and to repeal Section 14534.1 of, the Government Code, to amend Section 39719 of the Health and Safety Code, to amend Section 21080.37 of, and to add Division 13.6 (commencing with Section 21200) to, the Public Resources Code, to amend Section 99312.1 of, and to add Section 99314.9 to, the Public Utilities Code, to amend Sections 6051.8, 6201.8, 7360, 8352.4, 8352.5, 8352.6, and 60050 of the Revenue and Taxation Code, to amend Sections 183.1, 2192, 2192.1, and 2192.2 of, to add Sections 820.1, 2103.1, and 2192.4 to, and to add Chapter 2 (commencing with Section 2030) to Division 3 of, the Streets and Highways Code, and to add Sections 9250.3, 9250.6, and 9400.5 to the Vehicle Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1, as introduced, Frazier. Transportation funding.

(1) Existing law provides various sources of funding for transportation purposes, including funding for the state highway system and the local street and road system. These funding sources include, among others, fuel excise taxes, commercial vehicle weight fees, local transactions and use taxes, and federal funds. Existing law imposes certain registration fees on vehicles, with revenues from these fees deposited

in the Motor Vehicle Account and used to fund the Department of Motor Vehicles and the Department of the California Highway Patrol. Existing law provides for the monthly transfer of excess balances in the Motor Vehicle Account to the State Highway Account.

This bill would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria, consistent with a specified asset management plan, to ensure efficient use of certain funds available for the program. The bill would provide for the deposit of various funds for the program in the Road Maintenance and Rehabilitation Account, which the bill would create in the State Transportation Fund, including revenues attributable to a \$0.012 per gallon increase in the motor vehicle fuel (gasoline) tax imposed by the bill with an inflation adjustment, as provided, an increase of \$38 in the annual vehicle registration fee with an inflation adjustment, as provided, a new \$165 annual vehicle registration fee with an inflation adjustment, as provided, applicable to zero-emission motor vehicles, as defined, and certain miscellaneous revenues described in (7) below that are not restricted as to expenditure by Article XIX of the California Constitution.

This bill would annually set aside \$200,000,000 of the funds available for the program to fund road maintenance and rehabilitation purposes in counties that have sought and received voter approval of taxes or that have imposed fees, including uniform developer fees, as defined, which taxes or fees are dedicated solely to transportation improvements. These funds would be continuously appropriated for allocation pursuant to guidelines to be developed by the California Transportation Commission in consultation with local agencies. The bill would require \$80,000,000 of the funds available for the program to be annually transferred to the State Highway Account for expenditure on the Active Transportation Program. The bill would require \$30,000,000 of the funds available for the program in each of 4 fiscal years beginning in 2017–18 to be transferred to the Advance Mitigation Fund created by the bill pursuant to (12) below. The bill would continuously appropriate \$2,000,000 annually of the funds available for the program to the California State University for the purpose of conducting transportation research and transportation-related workforce education, training, and development, and \$3,000,000 annually to the institutes for transportation studies at the University of California. The bill would require the

remaining funds available for the program to be allocated 50% for maintenance of the state highway system or to the state highway operation and protection program and 50% to cities and counties pursuant to a specified formula. The bill would impose various requirements on the department and agencies receiving these funds. The bill would authorize a city or county to spend its apportionment of funds under the program on transportation priorities other than those allowable pursuant to the program if the city's or county's average Pavement Condition Index meets or exceeds 80.

The bill would also require the department to annually identify savings achieved through efficiencies implemented at the department and to propose, from the identified savings, an appropriation to be included in the annual Budget Act of up to \$70,000,000 from the State Highway Account for expenditure on the Active Transportation Program.

(2) Existing law establishes in state government the Transportation Agency, which includes various departments and state entities, including the California Transportation Commission. Existing law vests the California Transportation Commission with specified powers, duties, and functions relative to transportation matters. Existing law requires the commission to retain independent authority to perform the duties and functions prescribed to it under any provision of law.

This bill would exclude the California Transportation Commission from the Transportation Agency, establish it as an entity in state government, and require it to act in an independent oversight role. The bill would also make conforming changes.

(3) Existing law creates various state agencies, including the Department of Transportation, the High-Speed Rail Authority, the Department of the California Highway Patrol, the Department of Motor Vehicles, and the State Air Resources Board, with specified powers and duties. Existing law provides for the allocation of state transportation funds to various transportation purposes.

This bill would create the Office of the Transportation Inspector General in state government, as an independent office that would not be a subdivision of any other government entity, to ensure that all of the above-referenced state agencies and all other state agencies expending state transportation funds are operating efficiently, effectively, and in compliance with federal and state laws. The bill would provide for the Governor to appoint the Transportation Inspector General for a 6-year term, subject to confirmation by the Senate, and would provide that the Transportation Inspector General may not be

removed from office during the term except for good cause. The bill would specify the duties and responsibilities of the Transportation Inspector General and would require an annual report to the Legislature and Governor.

This bill would require the department to update the Highway Design Manual to incorporate the “complete streets” design concept by July 1, 2017.

(4) Existing law provides for loans of revenues from various transportation funds and accounts to the General Fund, with various repayment dates specified.

This bill would require the Department of Finance, on or before January 1, 2017, to compute the amount of outstanding loans made from specified transportation funds. The bill would require the Department of Transportation to prepare a loan repayment schedule and would require the outstanding loans to be repaid pursuant to that schedule, as prescribed. The bill would appropriate funds for that purpose from the Budget Stabilization Account. The bill would require the repaid funds to be transferred, pursuant to a specified formula, to cities and counties and to the department for maintenance of the state highway system and for purposes of the state highway operation and protection program.

(5) The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) created the Trade Corridors Improvement Fund and provided for allocation by the California Transportation Commission of \$2 billion in bond funds for infrastructure improvements on highway and rail corridors that have a high volume of freight movement and for specified categories of projects eligible to receive these funds. Existing law continues the Trade Corridors Improvement Fund in existence in order to receive revenues from sources other than the bond act for these purposes.

This bill would deposit the revenues attributable to a \$0.20 per gallon increase in the diesel fuel excise tax imposed by the bill into the Trade Corridors Improvement Fund. The bill would require revenues apportioned to the state from the national highway freight program established by the federal Fixing America’s Surface Transportation Act to be allocated for trade corridor improvement projects approved pursuant to these provisions.

Existing law requires the commission, in determining projects eligible for funding, to consult various state freight and regional infrastructure and goods movement plans and the statewide port master plan.

This bill would revise the list of plans to be consulted by the commission when determining eligible projects for funding. The bill would also expand eligible projects to include, among others, rail landside access improvements, landside freight access improvements to airports, and certain capital and operational improvements.

(6) Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund. Existing law continuously appropriates 10% of the annual proceeds of the fund to the Transit and Intercity Rail Capital Program and 5% of the annual proceeds of the fund to the Low Carbon Transit Operations Program.

This bill would, beginning in the 2017–18 fiscal year, instead continuously appropriate 20% of those annual proceeds to the Transit and Intercity Rail Capital Program and 10% of those annual proceeds to the Low Carbon Transit Operations Program, thereby making an appropriation.

(7) Article XIX of the California Constitution restricts the expenditure of revenues from taxes imposed by the state on fuels used in motor vehicles upon public streets and highways to street and highway and certain mass transit purposes. Existing law requires certain miscellaneous revenues deposited in the State Highway Account that are not restricted as to expenditure by Article XIX of the California Constitution to be transferred to the Transportation Debt Service Fund in the State Transportation Fund, as specified, and requires the Controller to transfer from the fund to the General Fund an amount of those revenues necessary to offset the current year debt service made from the General Fund on general obligation transportation bonds issued pursuant to Proposition 116 of 1990.

This bill would delete the transfer of these miscellaneous revenues to the Transportation Debt Service Fund, thereby eliminating the offsetting transfer to the General Fund for debt service on general obligation transportation bonds issued pursuant to Proposition 116 of 1990. The bill, subject to a specified exception, would instead require the miscellaneous revenues to be retained in the State Highway Account and to be deposited in the Road Maintenance and Rehabilitation Account.

(8) Article XIX of the California Constitution requires gasoline excise tax revenues from motor vehicles traveling upon public streets and

highways to be deposited in the Highway Users Tax Account, for allocation to city, county, and state transportation purposes. Existing law generally provides for statutory allocation of gasoline excise tax revenues attributable to other modes of transportation, including aviation, boats, agricultural vehicles, and off-highway vehicles, to particular accounts and funds for expenditure on purposes associated with those other modes, except that a specified portion of these gasoline excise tax revenues is deposited in the General Fund. Expenditure of the gasoline excise tax revenues attributable to those other modes is not restricted by Article XIX of the California Constitution.

This bill, commencing July 1, 2017, would instead transfer to the Highway Users Tax Account for allocation to state and local transportation purposes under a specified formula the portion of gasoline excise tax revenues currently being deposited in the General Fund that are attributable to boats, agricultural vehicles, and off-highway vehicles. Because that account is continuously appropriated, the bill would make an appropriation.

(9) Existing law, as of July 1, 2011, increases the sales and use tax on diesel and decreases the excise tax, as provided. Existing law requires the State Board of Equalization to annually modify both the gasoline and diesel excise tax rates on a going-forward basis so that the various changes in the taxes imposed on gasoline and diesel are revenue neutral.

This bill would eliminate the annual rate adjustment to maintain revenue neutrality for the gasoline and diesel excise tax rates and would reimpose the higher gasoline excise tax rate that was in effect on July 1, 2010, in addition to the increase in the rate described in (1) above.

Existing law, beyond the sales and use tax rate generally applicable, imposes an additional sales and use tax on diesel fuel at the rate of 1.75%, subject to certain exemptions, and provides for the net revenues collected from the additional tax to be transferred to the Public Transportation Account. Existing law continuously appropriates these revenues to the Controller for allocation by formula to transportation agencies for public transit purposes under the State Transit Assistance Program.

This bill would increase the additional sales and use tax on diesel fuel by an additional 3.5%. By increasing the revenues deposited in the Public Transportation Account that are continuously appropriated, the bill would thereby make an appropriation. The bill would restrict expenditures of revenues from this increase in the sales and use tax on diesel fuel to transit capital purposes and certain transit services and

would require a recipient transit agency to comply with certain requirements, including submitting a list of proposed projects to the Department of Transportation, as a condition of receiving a portion of these funds. The bill would require the Controller to compute and publish quarterly proposed allocations for each eligible recipient agency under the State Transit Assistance Program. The bill would require an existing required audit of transit operator finances to verify that these new revenues have been expended in conformance with these specific restrictions and all other generally applicable requirements.

This bill would, beginning July 1, 2019, and every 3rd year thereafter, require the State Board of Equalization to recompute the gasoline and diesel excise tax rates and the additional sales and use tax rate on diesel fuel based upon the percentage change in the California Consumer Price Index transmitted to the board by the Department of Finance, as prescribed.

(10) Existing law requires the Department of Transportation to prepare a state highway operation and protection program every other year for the expenditure of transportation capital improvement funds for projects that are necessary to preserve and protect the state highway system, excluding projects that add new traffic lanes. The program is required to be based on an asset management plan, as specified. Existing law requires the department to specify, for each project in the program the capital and support budget and projected delivery date for various components of the project. Existing law provides for the California Transportation Commission to review and adopt the program, and authorizes the commission to decline and adopt the program if it determines that the program is not sufficiently consistent with the asset management plan.

The bill would require the commission, as part of its review of the program, to hold at least one hearing in northern California and one hearing in southern California regarding the proposed program. The bill would require the department to submit any change to a programmed project as an amendment to the commission for its approval.

This bill, on and after August 1, 2017, would also require the commission to make an allocation of all capital and support costs for each project in the program, and would require the department to submit a supplemental project allocation request to the commission for each project that experiences cost increases above the amounts in its allocation. The bill would require the commission to establish guidelines to provide exceptions to the requirement for a supplemental project

allocation requirement that the commission determines are necessary to ensure that projects are not unnecessarily delayed.

(11) Existing law imposes weight fees on the registration of commercial motor vehicles and provides for the deposit of net weight fee revenues into the State Highway Account. Existing law provides for the transfer of certain weight fee revenues from the State Highway Account to the Transportation Debt Service Fund to reimburse the General Fund for payment of debt service on general obligation bonds issued for transportation purposes. Existing law also provides for the transfer of certain weight fee revenues to the Transportation Bond Direct Payment Account for direct payment of debt service on designated bonds, which are defined to be certain transportation general obligation bonds issued pursuant to Proposition 1B of 2006. Existing law also provides for loans of weight fee revenues to the General Fund to the extent the revenues are not needed for bond debt service purposes, with the loans to be repaid when the revenues are later needed for those purposes, as specified.

This bill, notwithstanding these provisions or any other law, would only authorize specified amounts of weight fee revenues to be transferred from the State Highway Account to the Transportation Debt Service Fund, the Transportation Bond Direct Payment Account, or any other fund or account for the purpose of payment of the debt service on transportation general obligation bonds in accordance with a prescribed schedule, with no more than \$500,000,000 to be transferred in the 2021–22 and subsequent fiscal years. The bill would also prohibit loans of weight fee revenues to the General Fund.

(12) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA, until January 1, 2020, exempts a project or an activity to repair, maintain, or make minor alterations to an existing roadway, as defined, other than a state roadway, if the project or activity is carried

out by a city or county with a population of less than 100,000 persons to improve public safety and meets other specified requirements.

This bill would extend the above-referenced exemption indefinitely and delete the limitation of the exemption to projects or activities in cities and counties with a population of less than 100,000 persons. The bill would also expand the exemption to include state roadways.

This bill would also establish the Advance Mitigation Program in the Department of Transportation. The bill would authorize the department to undertake mitigation measures in advance of construction of a planned transportation project. The bill would require the department to establish a steering committee to advise the department on advance mitigation measures and related matters. The bill would create the Advance Mitigation Fund as a continuously appropriated revolving fund, to be funded initially from the Road Maintenance and Rehabilitation Program pursuant to (1) above. The bill would provide for reimbursement of the revolving fund at the time a planned transportation project benefiting from advance mitigation is constructed.

(13) Existing federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery program, under which the participating states assume certain responsibilities for environmental review and clearance of transportation projects that would otherwise be the responsibility of the federal government. Existing law, until January 1, 2017, when these provisions are repealed, provides that the State of California consents to the jurisdiction of the federal courts with regard to the compliance, discharge, or enforcement of the responsibilities the Department of Transportation assumed as a participant in this program.

This bill would reenact these provisions.

(14) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Over the next 10 years, the state faces a \$59 billion shortfall
- 4 to adequately maintain the existing state highway system in order
- 5 to keep it in a basic state of good repair.

1 (b) Similarly, cities and counties face a \$78 billion shortfall
2 over the next decade to adequately maintain the existing network
3 of local streets and roads.

4 (c) Statewide taxes and fees dedicated to the maintenance of
5 the system have not been increased in more than 20 years, with
6 those revenues losing more than 55 percent of their purchasing
7 power, while costs to maintain the system have steadily increased
8 and much of the underlying infrastructure has aged past its expected
9 useful life.

10 (d) California motorists are spending \$17 billion annually in
11 extra maintenance and car repair bills, which is more than \$700
12 per driver, due to the state's poorly maintained roads.

13 (e) Failing to act now to address this growing problem means
14 that more drastic measures will be required to maintain our system
15 in the future, essentially passing the burden on to future generations
16 instead of doing our job today.

17 (f) A funding program will help address a portion of the
18 maintenance backlog on the state's road system and will stop the
19 growth of the problem.

20 (g) Modestly increasing various fees can spread the cost of road
21 repairs broadly to all users and beneficiaries of the road network
22 without overburdening any one group.

23 (h) Improving the condition of the state's road system will have
24 a positive impact on the economy as it lowers the transportation
25 costs of doing business, reduces congestion impacts for employees,
26 and protects property values in the state.

27 (i) The federal government estimates that increased spending
28 on infrastructure creates more than 13,000 jobs per \$1 billion spent.

29 (j) Well-maintained roads benefit all users, not just drivers, as
30 roads are used for all modes of transport, whether motor vehicles,
31 transit, bicycles, or pedestrians.

32 (k) Well-maintained roads additionally provide significant health
33 benefits and prevent injuries and death due to crashes caused by
34 poorly maintained infrastructure.

35 (l) A comprehensive, reasonable transportation funding package
36 will do all of the following:

37 (1) Ensure these transportation needs are addressed.

38 (2) Fairly distribute the economic impact of increased funding.

39 (3) Restore the gas tax rate previously reduced by the State
40 Board of Equalization pursuant to the gas tax swap.

1 (4) Direct increased revenue to the state's highest transportation
2 needs.

3 SEC. 2. Section 13975 of the Government Code is amended
4 to read:

5 13975. There is in the state government the Transportation
6 Agency. The agency consists of the Department of the California
7 Highway Patrol, the ~~California Transportation Commission~~, the
8 Department of Motor Vehicles, the Department of Transportation,
9 the High-Speed Rail Authority, and the Board of Pilot
10 Commissioners for the Bays of San Francisco, San Pablo, and
11 Suisun.

12 SEC. 3. Section 14033 is added to the Government Code, to
13 read:

14 14033. On or before July 1, 2017, the department shall update
15 the Highway Design Manual to incorporate the "complete streets"
16 design concept.

17 SEC. 4. Part 5.1 (commencing with Section 14460) is added
18 to Division 3 of Title 2 of the Government Code, to read:

19
20 PART 5.1. OFFICE OF THE TRANSPORTATION INSPECTOR
21 GENERAL
22

23 14460. (a) There is hereby created in state government the
24 independent Office of the Transportation Inspector General, which
25 shall not be a subdivision of any other governmental entity, to
26 ensure that the Department of Transportation, the High-Speed Rail
27 Authority, the Department of the California Highway Patrol, the
28 Department of Motor Vehicles, the State Air Resources Board,
29 and all other state agencies expending state transportation funds
30 are operating efficiently, effectively, and in compliance with
31 applicable federal and state laws.

32 (b) The Governor shall appoint, subject to confirmation by the
33 Senate, the Transportation Inspector General to a six-year term.
34 The Transportation Inspector General may not be removed from
35 office during that term, except for good cause. A finding of good
36 cause may include substantial neglect of duty, gross misconduct,
37 or conviction of a crime. The reasons for removal of the
38 Transportation Inspector General shall be stated in writing and
39 shall include the basis for removal. The writing shall be sent to
40 the Secretary of the Senate and the Chief Clerk of the Assembly

1 at the time of the removal and shall be deemed to be a public
2 document.

3 14461. The Transportation Inspector General shall review
4 policies, practices, and procedures and conduct audits and
5 investigations of activities involving state transportation funds in
6 consultation with all affected state agencies. Specifically, the
7 Transportation Inspector General's duties and responsibilities shall
8 include, but not be limited to, all of the following:

9 (a) To examine the operating practices of all state agencies
10 expending state transportation funds to identify fraud and waste,
11 opportunities for efficiencies, and opportunities to improve the
12 data used to determine appropriate project resource allocations.

13 (b) To identify best practices in the delivery of transportation
14 projects and develop policies or recommend proposed legislation
15 enabling state agencies to adopt these practices when practicable.

16 (c) To provide objective analysis of and, when possible, offer
17 solutions to concerns raised by the public or generated within
18 agencies involving the state's transportation infrastructure and
19 project delivery methods.

20 (d) To conduct, supervise, and coordinate audits and
21 investigations relating to the programs and operations of all state
22 transportation agencies with state-funded transportation projects.

23 (e) To recommend policies promoting economy and efficiency
24 in the administration of programs and operations of all state
25 agencies with state-funded transportation projects.

26 (f) To ensure that the Secretary of Transportation and the
27 Legislature are fully and currently informed concerning fraud or
28 other serious abuses or deficiencies relating to the expenditure of
29 funds or administration of programs and operations.

30 14462. The Transportation Inspector General shall report at
31 least annually to the Governor and Legislature with a summary of
32 his or her findings, investigations, and audits. The summary shall
33 be posted on the Transportation Inspector General's Internet Web
34 site and shall otherwise be made available to the public upon its
35 release to the Governor and Legislature. The summary shall
36 include, but need not be limited to, significant problems discovered
37 by the Transportation Inspector General and whether
38 recommendations of the Transportation Inspector General relative
39 to investigations and audits have been implemented by the affected

1 agencies. The report shall be submitted to the Legislature in
2 compliance with Section 9795.

3 SEC. 5. Section 14500 of the Government Code is amended
4 to read:

5 14500. There is in ~~the Transportation Agency~~ *state government*
6 a California Transportation Commission. *The commission shall*
7 *act in an independent oversight role.*

8 SEC. 6. Section 14526.5 of the Government Code is amended
9 to read:

10 14526.5. (a) Based on the asset management plan prepared
11 and approved pursuant to Section 14526.4, the department shall
12 prepare a state highway operation and protection program for the
13 expenditure of transportation funds for major capital improvements
14 that are necessary to preserve and protect the state highway system.
15 Projects included in the program shall be limited to ~~capital~~
16 ~~improvements relative to the maintenance, safety, operation, and~~
17 ~~rehabilitation~~ *rehabilitation, and operation* of state highways and
18 bridges that do not add a new traffic lane to the system.

19 (b) The program shall include projects that are expected to be
20 advertised prior to July 1 of the year following submission of the
21 program, but which have not yet been funded. The program shall
22 include those projects for which construction is to begin within
23 four fiscal years, starting July 1 of the year following the year the
24 program is submitted.

25 (c) *(1)* The department, at a minimum, shall specify, for each
26 project in the state highway operation and protection program, the
27 capital and support ~~budget, as well as a projected delivery date,~~
28 *budget* for each of the following project components:

29 ~~(1) Completion of project~~

30 ~~(A) Project approval and environmental documents.~~

31 ~~(2) Preparation of plans,~~

32 ~~(B) Plans, specifications, and estimates.~~

33 ~~(3) Acquisition of rights-of-way, including, but not limited to,~~
34 ~~support activities.~~

35 ~~(C) Rights-of-way.~~

36 ~~(D) Construction.~~

37 *(2) The department shall specify, for each project in the state*
38 *highway operation and protection program, a project delivery*
39 *date for each of the following components:*

40 *(A) Environmental document completion.*

1 (B) *Plans, specifications, and estimate completion.*

2 (C) *Right-of-way certification.*

3 ~~(4)~~

4 (D) *Start of construction.*

5 (d) ~~The program department shall be submitted~~ *submit its*
6 *proposed program* to the commission not later than January 31 of
7 each even-numbered year. Prior to submitting ~~the plan~~, *its proposed*
8 *program*, the department shall make a draft of its proposed program
9 available to transportation planning agencies for review and
10 comment and shall include the comments in its submittal to the
11 commission. *The department shall provide the commission with*
12 *detailed information for all programmed projects, including, but*
13 *not limited to, cost, scope, schedule, and performance metrics as*
14 *determined by the commission.*

15 (e) ~~The commission may~~ *shall* review the *proposed* program
16 relative to its overall adequacy, consistency with the asset
17 management plan prepared and approved pursuant to Section
18 14526.4 and funding priorities established in Section 167 of the
19 Streets and Highways Code, the level of annual funding needed
20 to implement the program, and the impact of those expenditures
21 on the state transportation improvement program. The commission
22 shall adopt the program and submit it to the Legislature and the
23 Governor not later than April 1 of each even-numbered year. The
24 commission may decline to adopt the program if the commission
25 determines that the program is not sufficiently consistent with the
26 asset management plan prepared and approved pursuant to Section
27 14526.4.

28 (f) *As part of the commission's review of the program required*
29 *pursuant to subdivision (a), the commission shall hold at least one*
30 *hearing in northern California and one hearing in southern*
31 *California regarding the proposed program.*

32 ~~(f)~~

33 (g) Expenditures for these projects shall not be subject to
34 Sections 188 and 188.8 of the Streets and Highways Code.

35 (h) *Following adoption of the state highway operation and*
36 *protection program by the commission, any change to a*
37 *programmed project shall be submitted as an amendment by the*
38 *department to the commission for its approval before the change*
39 *may be implemented.*

1 SEC. 7. Section 14526.7 is added to the Government Code, to
2 read:

3 14526.7. (a) On and after August 1, 2017, an allocation by the
4 commission of all capital and support costs for each project in the
5 state highway operation and protection program shall be required.

6 (b) For a project that experiences increases in capital or support
7 costs above the amounts in the commission's allocation pursuant
8 to subdivision (a), a supplemental project allocation request shall
9 be submitted by the department to the commission for approval.

10 (c) The commission shall establish guidelines to provide
11 exceptions to the requirement of subdivision (b) that the
12 commission determines are necessary to ensure that projects are
13 not unnecessarily delayed.

14 SEC. 8. Section 14534.1 of the Government Code is repealed.

15 ~~14534.1. Notwithstanding Section 12850.6 or subdivision (b)~~
16 ~~of Section 12800, as added to this code by the Governor's~~
17 ~~Reorganization Plan No. 2 of 2012 during the 2011-12 Regular~~
18 ~~Session, the commission shall retain independent authority to~~
19 ~~perform those duties and functions prescribed to it under any~~
20 ~~provision of law.~~

21 SEC. 9. Section 16321 is added to the Government Code, to
22 read:

23 16321. (a) Notwithstanding any other law, on or before January
24 1, 2017, the Department of Finance shall compute the amount of
25 outstanding loans made from the State Highway Account, the
26 Motor Vehicle Fuel Account, the Highway Users Tax Account,
27 and the Motor Vehicle Account to the General Fund. The
28 department shall prepare a loan repayment schedule, pursuant to
29 which the outstanding loans shall be repaid, as follows:

30 (1) On or before June 30, 2017, 50 percent of the outstanding
31 loan amounts.

32 (2) On or before June 30, 2018, the remainder of the outstanding
33 loan amounts.

34 (b) Notwithstanding any other law, as the loans are repaid
35 pursuant to this section, the repaid funds shall be transferred in the
36 following manner:

37 (1) Fifty percent to cities and counties pursuant to clauses (i)
38 and (ii) of subparagraph (C) of paragraph (3) of subdivision (a) of
39 Section 2103 of the Streets and Highways Code.

1 (2) Fifty percent to the department for maintenance of the state
2 highway system and for purposes of the state highway operation
3 and protection program.

4 (c) Funds for loan repayments pursuant to this section are hereby
5 appropriated from the Budget Stabilization Account pursuant to
6 subclause (II) of clause (ii) of subparagraph (B) of paragraph (1)
7 of subdivision (c) of Section 20 of Article XVI of the California
8 Constitution.

9 SEC. 10. Section 16965 of the Government Code is amended
10 to read:

11 16965. (a) (1) The Transportation Debt Service Fund is hereby
12 created in the State Treasury. Moneys in the fund shall be dedicated
13 to all of the following purposes:

14 (A) Payment of debt service with respect to designated bonds,
15 as defined in subdivision (c) of Section 16773, and as further
16 provided in paragraph (3) and subdivision (b).

17 (B) To reimburse the General Fund for debt service with respect
18 to bonds.

19 (C) To redeem or retire bonds, pursuant to Section 16774,
20 maturing in a subsequent fiscal year.

21 (2) The bonds eligible under subparagraph (B) or (C) of
22 paragraph (1) include bonds issued pursuant to the ~~Clean Air and~~
23 ~~Transportation Improvement Act of 1990 (Part 11.5 (commencing~~
24 ~~with Section 99600) of Division 10 of the Public Utilities Code),~~
25 ~~the Passenger Rail and Clean Air Bond Act of 1990 (Chapter 17~~
26 ~~(commencing with Section 2701) of Division 3 of the Streets and~~
27 ~~Highways Code), the Seismic Retrofit Bond Act of 1996 (Chapter~~
28 ~~12.48 (commencing with Section 8879) of Division 1 of Title 2),~~
29 ~~and the Safe, Reliable High-Speed Passenger Train Bond Act for~~
30 ~~the 21st Century (Chapter 20 (commencing with Section 2704) of~~
31 ~~Division 3 of the Streets and Highways Code), and nondesignated~~
32 ~~bonds under Proposition 1B, as defined in subdivision (c) of~~
33 ~~Section 16773.~~

34 (3) (A) The Transportation Bond Direct Payment Account is
35 hereby created in the State Treasury, as a subaccount within the
36 Transportation Debt Service Fund, for the purpose of directly
37 paying the debt service, as defined in paragraph (4), of designated
38 bonds of Proposition 1B, as defined in subdivision (c) of Section
39 16773. Notwithstanding Section 13340, moneys in the
40 Transportation Bond Direct Payment Account are continuously

1 appropriated for payment of debt service with respect to designated
2 bonds as provided in subdivision (c) of Section 16773. So long as
3 any designated bonds remain outstanding, the moneys in the
4 Transportation Bond Direct Payment Account may not be used
5 for any other purpose, and may not be borrowed by or available
6 for transfer to the General Fund pursuant to Section 16310 or any
7 similar law, or to the General Cash Revolving Fund pursuant to
8 Section 16381 or any similar law.

9 (B) Once the Treasurer makes a certification that payment of
10 debt service with respect to all designated bonds has been paid or
11 provided for, any remaining moneys in the Transportation Bond
12 Direct Payment Account shall be transferred back to the
13 Transportation Debt Service Fund.

14 (C) The moneys in the Transportation Bond Direct Payment
15 Account shall be invested in the Surplus Money Investment Fund,
16 and all investment earnings shall accrue to the account.

17 (D) The Controller may establish subaccounts within the
18 Transportation Bond Direct Payment Account as may be required
19 by the resolution, indenture, or other documents governing any
20 designated bonds.

21 (4) For purposes of this subdivision and subdivision (b), and
22 subdivision (c) of Section 16773, “debt service” means payment
23 of all of the following costs and expenses with respect to any
24 designated bond:

25 (A) The principal of and interest on the bonds.

26 (B) Amounts payable as the result of tender on any bonds, as
27 described in clause (iv) of subparagraph (B) of paragraph (1) of
28 subdivision (d) of Section 16731.

29 (C) Amounts payable under any contractual obligation of the
30 state to repay advances and pay interest thereon under a credit
31 enhancement or liquidity agreement as described in clause (iv) of
32 subparagraph (B) of paragraph (1) of subdivision (d) of Section
33 16731.

34 (D) Any amount owed by the state to a counterparty after any
35 offset for payments owed to the state on any hedging contract as
36 described in subparagraph (A) of paragraph (2) of subdivision (d)
37 of Section 16731.

38 (b) From the moneys transferred to the fund pursuant to
39 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
40 Vehicle Code, there shall first be deposited into the Transportation

1 Bond Direct Payment Account in each month sufficient funds to
2 equal the amount designated in a certificate submitted by the
3 Treasurer to the Controller and the Director of Finance at the start
4 of each fiscal year, and as may be modified by the Treasurer
5 thereafter upon issuance of any new issue of designated bonds or
6 upon change in circumstances that requires such a modification.
7 This certificate shall be calculated by the Treasurer to identify, for
8 each month, the amount necessary to fund all of the debt service
9 with respect to all designated bonds. This calculation shall be done
10 in a manner provided in the resolution, indenture, or other
11 documents governing the designated bonds. In the event that
12 transfers to the Transportation Bond Direct Payment Account in
13 any month are less than the amounts required in the Treasurer's
14 certificate, the shortfall shall carry over to be part of the required
15 payment in the succeeding month or months.

16 (c) The state hereby covenants with the holders from time to
17 time of any designated bonds that it will not alter, amend, or restrict
18 the provisions of subdivision (c) of Section 16773 of the
19 Government Code, or Sections 9400, 9400.1, 9400.4, and 42205
20 of the Vehicle Code, which provide directly or indirectly for the
21 transfer of weight fees to the Transportation Debt Service Fund
22 or the Transportation Bond Direct Payment Account, or
23 subdivisions (a) and (b) of this section, or reduce the rate of
24 imposition of vehicle weight fees under Sections 9400 and 9400.1
25 of the Vehicle Code as they existed on the date of the first issuance
26 of any designated bonds, if that alteration, amendment, restriction,
27 or reduction would result in projected weight fees for the next
28 fiscal year determined by the Director of Finance being less than
29 two times the maximum annual debt service with respect to all
30 outstanding designated bonds, as such calculation is determined
31 pursuant to the resolution, indenture, or other documents governing
32 the designated bonds. The state may include this covenant in the
33 resolution, indenture, or other documents governing the designated
34 bonds.

35 (d) Once the required monthly deposit, including makeup of
36 any shortfalls from any prior month, has been made pursuant to
37 subdivision (b), from moneys transferred to the fund pursuant to
38 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
39 Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the
40 Controller shall transfer as an expenditure reduction to the General

1 Fund any amount necessary to offset the cost of current year debt
2 service payments made from the General Fund with respect to any
3 bonds issued pursuant to Proposition 192 (1996) and three-quarters
4 of the amount of current year debt service payments made from
5 the General Fund with respect to any nondesignated bonds, as
6 defined in subdivision (c) of Section 16773, issued pursuant to
7 Proposition 1B (2006). In the alternative, these funds may also be
8 used to redeem or retire the applicable bonds, pursuant to Section
9 16774, maturing in a subsequent fiscal year as directed by the
10 Director of Finance.

11 ~~(e) From moneys transferred to the fund pursuant to Section~~
12 ~~183.1 of the Streets and Highways Code, the Controller shall~~
13 ~~transfer as an expenditure reduction to the General Fund any~~
14 ~~amount necessary to offset the cost of current year debt service~~
15 ~~payments made from the General Fund with respect to any bonds~~
16 ~~issued pursuant to Proposition 116 (1990). In the alternative, these~~
17 ~~funds may also be used to redeem or retire the applicable bonds,~~
18 ~~pursuant to Section 16774, maturing in a subsequent fiscal year~~
19 ~~as directed by the Director of Finance.~~

20 (f)

21 (e) Once the required monthly deposit, including makeup of
22 any shortfalls from any prior month, has been made pursuant to
23 subdivision (b), from moneys transferred to the fund pursuant to
24 paragraph (2) or (3) of subdivision (c) of Section 9400.4 of the
25 Vehicle Code, or pursuant to Section 16965.1 or 63048.67, the
26 Controller shall transfer as an expenditure reduction to the General
27 Fund any amount necessary to offset the eligible cost of current
28 year debt service payments made from the General Fund with
29 respect to any bonds issued pursuant to Proposition 108 (1990)
30 and Proposition 1A (2008), and one-quarter of the amount of
31 current year debt service payments made from the General Fund
32 with respect to any nondesignated bonds, as defined in subdivision
33 (c) of Section 16773, issued pursuant to Proposition 1B (2006).
34 The Department of Finance shall notify the Controller by July 30
35 of every year of the percentage of debt service that is expected to
36 be paid in that fiscal year with respect to bond-funded projects that
37 qualify as eligible guideway projects consistent with the
38 requirements applicable to the expenditure of revenues under
39 Article XIX of the California Constitution, and the Controller shall
40 make payments only for those eligible projects. In the alternative,

1 these funds may also be used to redeem or retire the applicable
2 bonds, pursuant to Section 16774, maturing in a subsequent fiscal
3 year as directed by the Director of Finance.

4 ~~(g)~~

5 (f) On or before the second business day following the date on
6 which transfers are made to the Transportation Debt Service Fund,
7 and after the required monthly deposits for that month, including
8 makeup of any shortfalls from any prior month, have been made
9 to the Transportation Bond Direct Payment Account, the Controller
10 shall transfer the funds designated for reimbursement of bond debt
11 service with respect to nondesignated bonds, as defined in
12 subdivision (c) of Section 16773, and other bonds identified in
13 subdivisions ~~(d), (e),~~ (d) and ~~(f)~~ (e) in that month from the fund to
14 the General Fund pursuant to this section.

15 SEC. 11. Section 39719 of the Health and Safety Code is
16 amended to read:

17 39719. (a) The Legislature shall appropriate the annual
18 proceeds of the fund for the purpose of reducing greenhouse gas
19 emissions in this state in accordance with the requirements of
20 Section 39712.

21 (b) To carry out a portion of the requirements of subdivision
22 (a), annual proceeds are continuously appropriated for the
23 following:

24 (1) Beginning in the ~~2015-16~~ 2017-18 fiscal year, and
25 notwithstanding Section 13340 of the Government Code, ~~35~~ 50
26 percent of annual proceeds are continuously appropriated, without
27 regard to fiscal years, for transit, affordable housing, and
28 sustainable communities programs as ~~following~~ follows:

29 (A) ~~Ten~~ Twenty percent of the annual proceeds of the fund is
30 hereby continuously appropriated to the Transportation Agency
31 for the Transit and Intercity Rail Capital Program created by Part
32 2 (commencing with Section 75220) of Division 44 of the Public
33 Resources Code.

34 (B) ~~Five~~ Ten percent of the annual proceeds of the fund is hereby
35 continuously appropriated to the Low Carbon Transit Operations
36 Program created by Part 3 (commencing with Section 75230) of
37 Division 44 of the Public Resources Code. ~~Funds~~ Moneys shall be
38 allocated by the Controller, according to requirements of the
39 program, and pursuant to the distribution formula in subdivision

(b) or (c) of Section 99312 of, and Sections 99313 and 99314 of, the Public Utilities Code.

(C) Twenty percent of the annual proceeds of the fund is hereby continuously appropriated to the Strategic Growth Council for the Affordable Housing and Sustainable Communities Program created by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code. Of the amount appropriated in this subparagraph, no less than 10 percent of the annual ~~proceeds~~; *proceeds* shall be expended for affordable housing, consistent with the provisions of that program.

(2) Beginning in the 2015–16 fiscal year, notwithstanding Section 13340 of the Government Code, 25 percent of the annual proceeds of the fund is hereby continuously appropriated to the High-Speed Rail Authority for the following components of the initial operating segment and Phase I Blended System as described in the 2012 business plan adopted pursuant to Section 185033 of the Public Utilities Code:

(A) Acquisition and construction costs of the project.

(B) Environmental review and design costs of the project.

(C) Other capital costs of the project.

(D) Repayment of any loans made to the authority to fund the project.

(c) In determining the amount of annual proceeds of the fund for purposes of the calculation in subdivision (b), the funds subject to Section 39719.1 shall not be included.

SEC. 12. Section 21080.37 of the Public Resources Code is amended to read:

21080.37. (a) This division does not apply to a project or an activity to repair, maintain, or make minor alterations to an existing roadway if all of the following conditions are met:

~~(1) The project is carried out by a city or county with a population of less than 100,000 persons to improve public safety.~~

~~(2)~~

(1) (A) The project does not cross a waterway.

(B) For purposes of this paragraph, “waterway” means a bay, estuary, lake, pond, river, slough, or a perennial, intermittent, or ephemeral stream, lake, or estuarine-marine shoreline.

~~(3)~~

1 (2) The project involves negligible or no expansion of an
2 existing use beyond that existing at the time of the lead agency's
3 determination.

4 ~~(4) The roadway is not a state roadway.~~

5 ~~(5)~~

6 (3) (A) The site of the project does not contain wetlands or
7 riparian areas and does not have significant value as a wildlife
8 habitat, and the project does not harm any species protected by the
9 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et
10 seq.), the Native Plant Protection Act (Chapter 10 (commencing
11 with Section 1900) of Division 2 of the Fish and Game Code), or
12 the California Endangered Species Act (Chapter 1.5 (commencing
13 with Section 2050) of Division 3 of the Fish and Game Code), and
14 the project does not cause the destruction or removal of any species
15 protected by a local ordinance.

16 (B) For the purposes of this paragraph:

17 (i) "Riparian areas" mean those areas transitional between
18 terrestrial and aquatic ecosystems and that are distinguished by
19 gradients in biophysical conditions, ecological processes, and biota.
20 A riparian area is an area through which surface and subsurface
21 hydrology connect waterbodies with their adjacent uplands. A
22 riparian area includes those portions of terrestrial ecosystems that
23 significantly influence exchanges of energy and matter with aquatic
24 ecosystems. A riparian area is adjacent to perennial, intermittent,
25 and ephemeral streams, lakes, and estuarine-marine shorelines.

26 (ii) "Significant value as a wildlife habitat" includes wildlife
27 habitat of national, statewide, regional, or local importance; habitat
28 for species protected by the federal Endangered Species Act of
29 1973 (16 U.S.C. Sec. ~~1531~~, 1531 et seq.), the California
30 Endangered Species Act (Chapter 1.5 (commencing with Section
31 2050) of Division 3 of the Fish and Game Code), or the Native
32 Plant Protection Act (Chapter 10 (commencing with Section 1900)
33 of Division 2 of the Fish and Game Code); habitat identified as
34 candidate, fully protected, sensitive, or species of special status
35 by local, state, or federal agencies; or habitat essential to the
36 movement of resident or migratory wildlife.

37 (iii) "Wetlands" has the same meaning as in the United States
38 Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

1 (iv) “Wildlife habitat” means the ecological communities upon
2 which wild animals, birds, plants, fish, amphibians, and
3 invertebrates depend for their conservation and protection.

4 ~~(6)~~

5 (4) The project does not impact cultural resources.

6 ~~(7)~~

7 (5) The roadway does not affect scenic resources, as provided
8 pursuant to subdivision (c) of Section 21084.

9 (b) Prior to determining that a project is exempt pursuant to this
10 section, the lead agency shall do both of the following:

11 (1) Include measures in the project to mitigate potential
12 vehicular traffic and safety impacts and bicycle and pedestrian
13 safety impacts.

14 (2) Hold a noticed public hearing on the project to hear and
15 respond to public comments. The hearing on the project may be
16 conducted with another noticed lead agency public hearing.
17 Publication of the notice shall be no fewer times than required by
18 Section 6061 of the Government Code, by the public agency in a
19 newspaper of general circulation in the area.

20 (c) For purposes of this section, “roadway” means a roadway
21 as defined pursuant to Section 530 of the Vehicle Code and the
22 previously graded and maintained shoulder that is within a roadway
23 right-of-way of no more than five feet from the edge of the
24 roadway.

25 ~~(d) Whenever~~

26 *(d) (1) If a state agency determines that a project is not subject*
27 *to this division pursuant to this section and it approves or*
28 *determines to carry out that project, it shall file a notice with the*
29 *Office of Planning and Research in the manner specified in*
30 *subdivisions (b) and (c) of Section 21108.*

31 *(2) If a local agency determines that a project is not subject to*
32 *this division pursuant to this section, section and it approves or*
33 *determines to carry out that project, the local agency it shall file*
34 *a notice with the Office of Planning and Research, and with the*
35 *county clerk in the county in which the project will be located in*
36 *the manner specified in subdivisions (b) and (c) of Section 21152.*

37 ~~(e) This section shall remain in effect only until January 1, 2020,~~
38 ~~and as of that date is repealed, unless a later enacted statute, that~~
39 ~~is enacted before January 1, 2020, deletes or extends that date.~~

1 SEC. 13. Division 13.6 (commencing with Section 21200) is
2 added to the Public Resources Code, to read:

3
4 DIVISION 13.6. ADVANCE MITIGATION PROGRAM ACT

5
6 CHAPTER 1. GENERAL

7
8 21200. This division shall be known, and may be cited, as the
9 Advance Mitigation Program Act.

10 21201. (a) The purpose of this division is to improve the
11 success and effectiveness of actions implemented to mitigate the
12 natural resource impacts of future transportation projects by
13 establishing the means to implement those actions well before the
14 transportation projects are constructed. The advance identification
15 and implementation of mitigation actions also will streamline the
16 delivery of transportation projects by anticipating mitigation
17 requirements for planned transportation projects and avoiding or
18 reducing delays associated with environmental permitting. By
19 identifying regional or statewide conservation priorities and by
20 anticipating the impacts of planned transportation projects on a
21 regional or statewide basis, mitigation actions can be designed to
22 protect and restore California's most valuable natural resources
23 and also facilitate environmental compliance for planned
24 transportation projects on a regional scale.

25 (b) This division is not intended to create a new environmental
26 permitting or regulatory program or to modify existing
27 environmental laws or regulations, nor is it expected that all
28 mitigation requirements will be addressed for planned
29 transportation projects. Instead, it is intended to provide a
30 methodology with which to anticipate and fulfill the requirements
31 of existing state and federal environmental laws that protect fish,
32 wildlife, plant species, and other natural resources more efficiently
33 and effectively.

34 21202. The Legislature finds and declares all of the following:

35 (a) The minimization and mitigation of environmental impacts
36 is ordinarily handled on a project-by-project basis, usually near
37 the end of a project's timeline and often without guidance regarding
38 regional or statewide conservation priorities.

39 (b) The cost of critical transportation projects often escalates
40 because of permitting delays that occur when appropriate

1 conservation and mitigation measures cannot easily be identified
2 and because the cost of these measures often increases between
3 the time a project is planned and funded and the time mitigation
4 is implemented.

5 (c) Addressing conservation and mitigation needs early in a
6 project's timeline, during the project design and development
7 phase, can reduce costs, allow natural resources conservation to
8 be integrated with project siting and design, and result in the
9 establishment of more valuable and productive habitat mitigation.

10 (d) When the Department of Transportation is able to anticipate
11 the mitigation needs for planned transportation projects, it can
12 meet those needs in a more timely and cost-effective way by using
13 advance mitigation planning.

14 (e) Working with state and federal resource protection agencies,
15 the department can identify, conserve, and, where appropriate,
16 restore lands for mitigation of numerous projects early in the
17 projects' timelines, thereby allowing public funds to stretch further
18 by acquiring habitat at a lower cost and avoiding environmental
19 permitting delays.

20 (f) Advance mitigation can provide an effective means of
21 facilitating delivery of transportation projects while ensuring more
22 effective natural resource conservation.

23 (g) Advance mitigation is needed to direct mitigation funding
24 for transportation projects to agreed-upon conservation priorities
25 and to the creation of habitat reserves and recreation areas that
26 enhance the sustainability of human and natural systems by
27 protecting or restoring connectivity of natural communities and
28 the delivery of ecosystem services.

29 (h) Advance mitigation can facilitate the implementation of
30 climate change adaptation strategies both for ecosystems and
31 California's economy.

32 (i) Advance mitigation can enable the state to protect, restore,
33 and recover its natural resources as it strengthens and improves
34 its transportation systems.

35 21203. The Legislature intends to do all of the following by
36 enacting this division:

37 (a) Facilitate delivery of transportation projects while ensuring
38 more effective natural resource conservation.

1 (b) Develop effective strategies to improve the state’s ability to
2 meet mounting demands for transportation improvements and to
3 maximize conservation and other public benefits.

4 (c) Achieve conservation objectives of statewide and regional
5 importance by coordinating local, state, and federally funded
6 natural resource conservation efforts with mitigation actions
7 required for impacts from transportation projects.

8 (d) Create administrative, governance, and financial incentives
9 and mechanisms necessary to ensure that measures required to
10 minimize or mitigate impacts from transportation projects will
11 serve to achieve regional or statewide natural resource conservation
12 objectives.

13
14 CHAPTER 2. DEFINITIONS
15

16 21204. For purposes of this division, the following terms have
17 the following meanings:

18 (a) “Advance mitigation” means mitigation implemented before,
19 and in anticipation of, environmental effects of planned
20 transportation projects.

21 (b) “Commission” means the California Transportation
22 Commission.

23 (c) “Department” means the Department of Transportation.

24 (d) “Transportation project” means a transportation capital
25 improvement project.

26 (e) “Planned transportation project” means a transportation
27 project that a transportation agency has concluded is reasonably
28 likely to be constructed within 20 years and that has been identified
29 to the agency for purposes of this division. A planned transportation
30 project may include, but is not limited to, a transportation project
31 that has been proposed for approval or that has been approved.

32 (f) “Program” means the Advance Mitigation Program
33 implemented pursuant to this division.

34 (g) “Regulatory agency” means a state or federal natural
35 resource protection agency with regulatory authority over planned
36 transportation projects. A regulatory agency includes, but is not
37 limited to, the Natural Resources Agency, the Department of Fish
38 and Wildlife, California regional water quality control boards, the
39 United States Fish and Wildlife Service, the National Marine

1 Fisheries Service, the United States Environmental Protection
2 Agency, and the United States Army Corps of Engineers.

3
4 CHAPTER 3. ADVANCE MITIGATION PROGRAM
5

6 21205. (a) The Advance Mitigation Program is hereby created
7 in the department to accelerate project delivery and improve
8 environmental outcomes of environmental mitigation for planned
9 transportation projects.

10 (b) The program may utilize mitigation instruments, including,
11 but not limited to, mitigation banks, in lieu of fee programs, and
12 conservation easements as defined in Section 815.1 of the Civil
13 Code.

14 (c) The department shall track all implemented advance
15 mitigation projects to use as credits for environmental mitigation
16 for state-sponsored transportation projects.

17 (d) The department may use advance mitigation credits to fulfill
18 mitigation requirements of any environmental law for a
19 transportation project eligible for the State Transportation
20 Improvement Program or the State Highway Operation and
21 Protection Program.

22 21206. No later than August 1, 2017, the department shall
23 establish an interagency transportation advance mitigation steering
24 committee consisting of the department and appropriate state and
25 federal regulatory agencies to support the program so that advance
26 mitigation can be used as required mitigation for planned
27 transportation projects and can provide improved environmental
28 outcomes. The committee shall advise the department of
29 opportunities to carry out advance mitigation projects, provide the
30 best available science, and actively participate in mitigation
31 instrument reviews and approvals. The committee shall seek to
32 develop streamlining opportunities, including those related to
33 landscape scale mitigation planning and alignment of federal and
34 state regulations and procedures related to mitigation requirements
35 and implementation. The committee shall also provide input on
36 crediting, using, and tracking of advance mitigation investments.

37 21207. The Advance Mitigation Fund is hereby created in the
38 State Transportation Fund as a revolving fund. Notwithstanding
39 Section 13340 of the Government Code, the fund shall be
40 continuously appropriated without regard to fiscal years. The

1 moneys in the fund shall be programmed by the commission for
2 the planning and implementation of advance mitigation projects
3 consistent with the purposes of this chapter. After the transfer of
4 moneys to the fund for four fiscal years pursuant to subdivision
5 (c) of Section 2032 of the Streets and Highways Code, commencing
6 in the 2017–18 fiscal year, the program is intended to be
7 self-sustaining. Advance expenditures from the fund shall later be
8 reimbursed from project funding available at the time a planned
9 transportation project is constructed. A maximum of 5 percent of
10 available funds may be used for administrative purposes.

11 21208. The program is intended to improve the efficiency and
12 efficacy of mitigation only and is not intended to supplant the
13 requirements of the California Environmental Quality Act (Division
14 13 (commencing with Section 21000) or any other environmental
15 law. The identification of planned transportation projects and of
16 mitigation projects or measures for planned transportation projects
17 under this division does not imply or require approval of those
18 projects for purposes of the California Environmental Quality Act
19 (Division 13 (commencing with Section 21000) or any other
20 environmental law.

21 SEC. 14. Section 99312.1 of the Public Utilities Code is
22 amended to read:

23 99312.1. (a) Revenues transferred to the Public Transportation
24 Account pursuant to Sections 6051.8 and 6201.8 of the Revenue
25 and Taxation Code are hereby continuously appropriated to the
26 Controller for allocation as follows:

27 ~~(a)~~

28 (1) Fifty percent for allocation to transportation planning
29 agencies, county transportation commissions, and the San Diego
30 Metropolitan Transit Development Board pursuant to Section
31 99314.

32 ~~(b)~~

33 (2) Fifty percent for allocation to transportation agencies, county
34 transportation commissions, and the San Diego Metropolitan
35 Transit Development Board for purposes of Section 99313.

36 (b) For purposes of this chapter, the revenues allocated pursuant
37 to this section shall be subject to the same requirements as revenues
38 allocated pursuant to subdivisions (b) and (c), as applicable, of
39 Section 99312.

1 (c) *The revenues transferred to the Public Transportation*
2 *Account that are attributable to the increase in the sales and use*
3 *tax on diesel fuel pursuant to subdivision (b) of Section 6051.8 of*
4 *the Revenue and Taxation Code, as adjusted pursuant to*
5 *subdivision (c) of that section, and subdivision (b) of Section 6201.8*
6 *of the Revenue and Taxation Code, as adjusted pursuant to*
7 *subdivision (c) of that section, upon allocation pursuant to Sections*
8 *99313 and 99314, shall only be expended on the following:*

9 (1) *Transit capital projects or services to maintain or repair a*
10 *transit operator's existing transit vehicle fleet or existing transit*
11 *facilities, including rehabilitation or modernization of existing*
12 *vehicles or facilities.*

13 (2) *The design, acquisition, and construction of new vehicles*
14 *or facilities that improve existing transit services.*

15 (3) *Transit services that complement local efforts for repair and*
16 *improvement of local transportation infrastructure.*

17 (d) (1) *Prior to receiving an apportionment of funds pursuant*
18 *to subdivision (c) from the Controller in a fiscal year, a recipient*
19 *transit agency shall submit to the Department of Transportation*
20 *a list of projects proposed to be funded with these funds. The list*
21 *of projects proposed to be funded with these funds shall include*
22 *a description and location of each proposed project, a proposed*
23 *schedule for the project's completion, and the estimated useful life*
24 *of the improvement. The project list shall not limit the flexibility*
25 *of a recipient transit agency to fund projects in accordance with*
26 *local needs and priorities so long as the projects are consistent*
27 *with subdivision (c).*

28 (2) *The department shall report to the Controller the recipient*
29 *transit agencies that have submitted a list of projects as described*
30 *in this subdivision and that are therefore eligible to receive an*
31 *apportionment of funds for the applicable fiscal year. The*
32 *Controller, upon receipt of the report, shall apportion funds*
33 *pursuant to Sections 99313 and 99314.*

34 (e) *For each fiscal year, each recipient transit agency receiving*
35 *an apportionment of funds pursuant to subdivision (c) shall, upon*
36 *expending those funds, submit documentation to the department*
37 *that includes a description and location of each completed project,*
38 *the amount of funds expended on the project, the completion date,*
39 *and the estimated useful life of the improvement.*

1 (f) *The audit of transit operator finances required pursuant to*
2 *Section 99245 shall verify that the revenues identified in*
3 *subdivision (c) have been expended in conformance with these*
4 *specific requirements and all other generally applicable*
5 *requirements.*

6 SEC. 15. Section 99314.9 is added to the Public Utilities Code,
7 to read:

8 99314.9. The Controller shall compute quarterly proposed
9 allocations for State Transit Assistance funds available for
10 allocation pursuant to Sections 99313 and 99314. The Controller
11 shall publish the allocations for each eligible recipient agency,
12 including one list applicable to revenues allocated pursuant to
13 subdivision (c) of Section 99312.1 and another list for revenues
14 allocated from all other revenues in the Public Transportation
15 Account that are designated for the State Transit Assistance
16 Program.

17 SEC. 16. Section 6051.8 of the Revenue and Taxation Code
18 is amended to read:

19 6051.8. (a) Except as provided by Section 6357.3, in addition
20 to the taxes imposed by this part, for the privilege of selling
21 tangible personal property at retail a tax is hereby imposed upon
22 all retailers at the rate of 1.75 percent of the gross receipts of any
23 retailer from the sale of all diesel fuel, as defined in Section 60022,
24 ~~sold at retail in this state on and after the operative date of this~~
25 ~~subdivision.~~ *fuel.*

26 (b) *Except as provided by Section 6357.3, in addition to the*
27 *taxes imposed by this part and by subdivision (a), for the privilege*
28 *of selling tangible personal property at retail a tax is hereby*
29 *imposed upon all retailers at the rate of 3.5 percent of the gross*
30 *receipts of any retailer from the sale of all diesel fuel, as defined*
31 *in Section 60022, sold at retail in this state. The tax imposed under*
32 *this subdivision shall be imposed on and after the first day of the*
33 *first calendar quarter that occurs 120 days after the effective date*
34 *of the act adding this subdivision.*

35 ~~(b) Notwithstanding subdivision (a), for~~

36 (c) *Beginning July 1, 2019, and every third year thereafter, the*
37 ~~2011-12 fiscal year only, State Board of Equalization shall~~
38 ~~recompute the rate referenced in subdivision (a) rates of the taxes~~
39 ~~imposed by this section. That computation shall be 1.87 percent.~~
40 *made as follows:*

~~(e) Notwithstanding subdivision (a),~~

~~(1) The Department of Finance shall transmit to the State Board of Equalization the percentage change in the California Consumer Price Index for all items from November of three calendar years prior to November of the 2012-13 fiscal year only, the rate referenced in subdivision (a) shall be 2.17 percent. prior calendar year, no later than January 31, 2019, and January 31 of every third year thereafter.~~

~~(d) Notwithstanding subdivision (a), for~~

~~(2) The State Board of Equalization shall do all of the following:~~

~~(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.~~

~~(B) Multiply the preceding tax rate per gallon by the inflation adjustment factor determined in subparagraph (A) and round off the resulting product to the nearest tenth of a cent.~~

~~(C) Make its determination of the 2013-14 fiscal year only, new rate no later than March 1 of the rate referenced in subdivision (a) shall be 1.94 percent. same year as the effective date of the new rate.~~

~~(e)~~

~~(d) Notwithstanding subdivision (b) of Section 7102, all of the revenues, less refunds, collected pursuant to this section shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation pursuant to Section 99312.1 of the Public Utilities Code.~~

~~(f) Subdivisions (a) to (e), inclusive, shall become operative on July 1, 2011.~~

SEC. 17. Section 6201.8 of the Revenue and Taxation Code is amended to read:

6201.8. (a) Except as provided by Section 6357.3, in addition to the taxes imposed by this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of diesel fuel, as defined in Section 60022, at the rate of 1.75 percent of the sales price of the diesel fuel on and after the operative date of this subdivision: *fuel*.

~~(b) Notwithstanding subdivision (a), for~~

1 (b) Except as provided by Section 6357.3, in addition to the
2 taxes imposed by this part and by subdivision (a), an excise tax is
3 hereby imposed on the storage, use, or other consumption in this
4 state of diesel fuel, as defined in Section 60022, at the rate of 3.5
5 percent of the sales price of the diesel fuel. The tax imposed under
6 this subdivision shall be imposed on and after the first day of the
7 first calendar quarter that occurs 120 days after the effective date
8 of the act adding this subdivision.

9 (c) Beginning July 1, 2019, and every third year thereafter, the
10 ~~2011-12 fiscal year only~~, State Board of Equalization shall
11 ~~recompute the rate referenced in subdivision (a)~~ rates of the taxes
12 ~~imposed by this section. That computation shall be 1.87 percent.~~
13 ~~made as follows:~~

14 ~~(e) Notwithstanding subdivision (a),~~

15 (1) The Department of Finance shall transmit to the State Board
16 of Equalization the percentage change in the California Consumer
17 Price Index for all items from November of three calendar years
18 prior to November of the ~~2012-13 fiscal year only~~, the rate
19 ~~referenced in subdivision (a)~~ shall be 2.17 percent. prior calendar
20 year, no later than January 31, 2019, and January 31 of every
21 third year thereafter.

22 ~~(d) Notwithstanding subdivision (a), for~~

23 (2) The State Board of Equalization shall do all of the following:

24 (A) Compute an inflation adjustment factor by adding 100
25 percent to the percentage change figure that is furnished pursuant
26 to paragraph (1) and dividing the result by 100.

27 (B) Multiply the preceding tax rate per gallon by the inflation
28 adjustment factor determined in subparagraph (A) and round off
29 the resulting product to the nearest tenth of a cent.

30 (C) Make its determination of the ~~2013-14 fiscal year only~~, new
31 rate no later than March 1 of the ~~rate referenced in subdivision~~
32 ~~(a)~~ shall be 1.94 percent. same year as the effective date of the new
33 rate.

34 ~~(e)~~

35 (d) Notwithstanding subdivision (b) of Section 7102, all of the
36 revenues, less refunds, collected pursuant to this section shall be
37 estimated by the State Board of Equalization, with the concurrence
38 of the Department of Finance, and transferred quarterly to the
39 Public Transportation Account in the State Transportation Fund

1 for allocation pursuant to Section 99312.1 of the Public Utilities
2 Code.

3 ~~(f) Subdivisions (a) to (e), inclusive, shall become operative on~~
4 ~~July 1, 2011.~~

5 SEC. 18. Section 7360 of the Revenue and Taxation Code is
6 amended to read:

7 7360. (a) (1) (A) A tax of eighteen cents (\$0.18) is hereby
8 imposed upon each gallon of fuel subject to the tax in Sections
9 7362, 7363, and 7364.

10 (B) *In addition to the tax imposed pursuant to subparagraph*
11 *(A), on and after the first day of the first calendar quarter that*
12 *occurs 90 days after the effective date of the act adding this*
13 *subparagraph, a tax of twelve cents (\$0.12) is hereby imposed*
14 *upon each gallon of fuel, other than aviation gasoline, subject to*
15 *the tax in Sections 7362, 7363, and 7364.*

16 (2) If the federal fuel tax is reduced below the rate of nine cents
17 (\$0.09) per gallon and federal financial allocations to this state for
18 highway and exclusive public mass transit guideway purposes are
19 reduced or eliminated correspondingly, the tax rate imposed by
20 *subparagraph (A) of paragraph (1), on and after the date of the*
21 *reduction, shall be recalculated by an amount so that the combined*
22 *state rate under subparagraph (A) of paragraph (1) and the federal*
23 *tax rate per gallon equal twenty-seven cents (\$0.27).*

24 (3) If any person or entity is exempt or partially exempt from
25 the federal fuel tax at the time of a reduction, the person or entity
26 shall continue to be so exempt under this section.

27 (b) ~~(4)~~ On and after July 1, 2010, in addition to the tax imposed
28 by subdivision (a), a tax is hereby imposed upon each gallon of
29 motor vehicle fuel, other than aviation gasoline, subject to the tax
30 in Sections 7362, 7363, and 7364 in an amount equal to seventeen
31 and three-tenths cents (\$0.173) per gallon.

32 ~~(2) For the 2011–12 fiscal year~~

33 (c) *Beginning July 1, 2019, and each fiscal every third year*
34 *thereafter, the board shall, on or before March 1 State Board of*
35 *the fiscal year immediately preceding the applicable fiscal year,*
36 *adjust the rate in paragraph (1) in that manner as to generate an*
37 *amount Equalization shall recompute the rates of revenue that*
38 *will equal the amount of revenue loss attributable to the exemption*
39 *provided taxes imposed by Section 6357.7, based on estimates*
40 *made by the board, and that rate this section. That computation*

1 shall be ~~effective during the state's next fiscal year.~~ *made as*
2 *follows:*

3 ~~(3) In order to maintain revenue neutrality for each year,~~
4 ~~beginning with~~

5 *(1) The Department of Finance shall transmit to the State Board*
6 *of Equalization the percentage change in the California Consumer*
7 *Price Index for all items from November of three calendar years*
8 *prior to November of the prior calendar year, no later than January*
9 *31, 2019, and January 31 of every third year thereafter.*

10 *(2) The State Board of Equalization shall do all of the following:*

11 *(A) Compute an inflation adjustment factor by adding 100*
12 *percent to the percentage change figure that is furnished pursuant*
13 *to paragraph (1) and dividing the result by 100.*

14 ~~(B) Multiply the preceding tax rate adjustment on or before~~
15 ~~March 1, 2012, the adjustment under paragraph (2) shall also take~~
16 ~~into account the extent to which the actual amount of revenues~~
17 ~~derived pursuant to this subdivision and, as applicable, Section~~
18 ~~7361.1, the revenue loss attributable to the exemption provided~~
19 ~~per gallon by Section 6357.7 resulted the inflation adjustment~~
20 ~~factor determined in a net revenue gain or loss for subparagraph~~
21 ~~(A) and round off the fiscal year ending prior resulting product to~~
22 ~~the rate adjustment date on or before March 1, nearest tenth of a~~
23 ~~cent.~~

24 ~~(4) The intent~~

25 ~~(C) Make its determination of paragraphs (2) and (3) is to ensure~~
26 ~~that the act adding this subdivision and Section 6357.7 does not~~
27 ~~produce a net revenue gain in state taxes.~~ *new rate no later than*
28 *March 1 of the same year as the effective date of the new rate.*

29 SEC. 19. Section 8352.4 of the Revenue and Taxation Code
30 is amended to read:

31 8352.4. (a) Subject to Sections 8352 and 8352.1, and except
32 as otherwise provided in subdivision (b), there shall be transferred
33 from the money deposited to the credit of the Motor Vehicle Fuel
34 Account to the Harbors and Watercraft Revolving Fund, for
35 expenditure in accordance with Division 1 (commencing with
36 Section 30) of the Harbors and Navigation Code, the sum of six
37 million six hundred thousand dollars (\$6,600,000) per annum,
38 representing the amount of money in the Motor Vehicle Fuel
39 Account attributable to taxes imposed on distributions of motor
40 vehicle fuel used or usable in propelling vessels. The actual amount

1 shall be calculated using the annual reports of registered boats
2 prepared by the Department of Motor Vehicles for the United
3 States Coast Guard and the formula and method of the December
4 1972 report prepared for this purpose and submitted to the
5 Legislature on December 26, 1972, by the Director of
6 Transportation. If the amount transferred during each fiscal year
7 is in excess of the calculated amount, the excess shall be
8 retransferred from the Harbors and Watercraft Revolving Fund to
9 the Motor Vehicle Fuel Account. If the amount transferred is less
10 than the amount calculated, the difference shall be transferred from
11 the Motor Vehicle Fuel Account to the Harbors and Watercraft
12 Revolving Fund. No adjustment shall be made if the computed
13 difference is less than fifty thousand dollars (\$50,000), and the
14 amount shall be adjusted to reflect any temporary or permanent
15 increase or decrease that may be made in the rate under the Motor
16 Vehicle Fuel Tax Law. Payments pursuant to this section shall be
17 made prior to payments pursuant to Section 8352.2.

18 (b) Commencing July 1, ~~2012~~, 2017, the revenues attributable
19 to the taxes imposed pursuant to subdivision (b) of Section 7360
20 and Section 7361.1 and otherwise to be deposited in the Harbors
21 and Watercraft Revolving Fund pursuant to subdivision (a) shall
22 instead be transferred to the ~~General Fund~~. The revenues
23 ~~attributable to the taxes imposed~~ *Highway Users Tax Account for*
24 *distribution* pursuant to ~~subdivision (b) of Section 7360 and Section~~
25 ~~7361.1 that were deposited in 2103.1 of the Harbors Streets and~~
26 ~~Watercraft Revolving Fund in the 2010-11 and 2011-12 fiscal~~
27 ~~years shall be transferred to the General Fund.~~ *Highways Code.*

28 SEC. 20. Section 8352.5 of the Revenue and Taxation Code
29 is amended to read:

30 8352.5. (a) (1) Subject to Sections 8352 and 8352.1, and
31 except as otherwise provided in subdivision (b), there shall be
32 transferred from the money deposited to the credit of the Motor
33 Vehicle Fuel Account to the Department of Food and Agriculture
34 Fund, during the second quarter of each fiscal year, an amount
35 equal to the estimate contained in the most recent report prepared
36 pursuant to this section.

37 (2) The amounts are not subject to Section 6357 with respect
38 to the collection of sales and use taxes thereon, and represent the
39 portion of receipts in the Motor Vehicle Fuel Account during a
40 calendar year that were attributable to agricultural off-highway

1 use of motor vehicle fuel which is subject to refund pursuant to
2 Section 8101, less gross refunds allowed by the Controller during
3 the fiscal year ending June 30th 30 following the calendar year to
4 persons entitled to refunds for agricultural off-highway use
5 pursuant to Section 8101. Payments pursuant to this section shall
6 be made prior to payments pursuant to Section 8352.2.

7 (b) Commencing July 1, ~~2012~~, 2017, the revenues attributable
8 to the taxes imposed pursuant to subdivision (b) of Section 7360
9 and Section 7361.1 and otherwise to be deposited in the
10 Department of Food and Agriculture Fund pursuant to subdivision
11 (a) shall instead be transferred to the ~~General Fund~~. The revenues
12 ~~attributable to the taxes imposed~~ *Highway Users Tax Account for*
13 ~~distribution pursuant to subdivision (b) of Section 7360 and Section~~
14 ~~7361.1 that were deposited in the Department 2103.1 of Food and~~
15 ~~Agriculture Fund in the 2010-11 Streets and 2011-12 fiscal years~~
16 ~~shall be transferred to the General Fund.~~ *Highways Code.*

17 (c) On or before September 30, 2012, and on or before
18 September 30 of each even-numbered year thereafter, the Director
19 of Transportation and the Director of Food and Agriculture shall
20 jointly prepare, or cause to be prepared, a report setting forth the
21 current estimate of the amount of money in the Motor Vehicle
22 Fuel Account attributable to agricultural off-highway use of motor
23 vehicle fuel, which is subject to refund pursuant to Section 8101
24 less gross refunds allowed by the Controller to persons entitled to
25 refunds for agricultural off-highway use pursuant to Section 8101;
26 and they shall submit a copy of the report to the Legislature.

27 SEC. 21. Section 8352.6 of the Revenue and Taxation Code
28 is amended to read:

29 8352.6. (a) (1) Subject to Section 8352.1, and except as
30 otherwise provided in paragraphs (2) and (3), on the first day of
31 every month, there shall be transferred from moneys deposited to
32 the credit of the Motor Vehicle Fuel Account to the Off-Highway
33 Vehicle Trust Fund created by Section 38225 of the Vehicle Code
34 an amount attributable to taxes imposed upon distributions of motor
35 vehicle fuel used in the operation of motor vehicles off highway
36 and for which a refund has not been claimed. Transfers made
37 pursuant to this section shall be made prior to transfers pursuant
38 to Section 8352.2.

39 (2) Commencing July 1, ~~2012~~, 2017, the revenues attributable
40 to the taxes imposed pursuant to subdivision (b) of Section 7360

1 and Section 7361.1 and otherwise to be deposited in the
2 Off-Highway Vehicle Trust Fund pursuant to paragraph (1) shall
3 instead be transferred to the ~~General Fund~~. The revenues
4 ~~attributable to the taxes imposed~~ *Highway Users Tax Account for*
5 *distribution* pursuant to subdivision (b) of Section 7360 and Section
6 ~~7361.1 that were deposited in 2103.1 of the Off-Highway Vehicle~~
7 ~~Trust Fund in the 2010–11 Streets and 2011–12 fiscal years shall~~
8 ~~be transferred to the General Fund.~~ *Highways Code.*

9 (3) The Controller shall withhold eight hundred thirty-three
10 thousand dollars (\$833,000) from the monthly transfer to the
11 Off-Highway Vehicle Trust Fund pursuant to paragraph (1), and
12 transfer that amount to the General Fund.

13 (b) The amount transferred to the Off-Highway Vehicle Trust
14 Fund pursuant to paragraph (1) of subdivision (a), as a percentage
15 of the Motor Vehicle Fuel Account, shall be equal to the percentage
16 transferred in the 2006–07 fiscal year. Every five years, starting
17 in the 2013–14 fiscal year, the percentage transferred may be
18 adjusted by the Department of Transportation in cooperation with
19 the Department of Parks and Recreation and the Department of
20 Motor Vehicles. Adjustments shall be based on, but not limited
21 to, the changes in the following factors since the 2006–07 fiscal
22 year or the last adjustment, whichever is more recent:

23 (1) The number of vehicles registered as off-highway motor
24 vehicles as required by Division 16.5 (commencing with Section
25 38000) of the Vehicle Code.

26 (2) The number of registered street-legal vehicles that are
27 anticipated to be used off highway, including four-wheel drive
28 vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

29 (3) Attendance at the state vehicular recreation areas.

30 (4) Off-highway recreation use on federal lands as indicated by
31 the United States Forest Service’s National Visitor Use Monitoring
32 and the United States Bureau of Land Management’s Recreation
33 Management Information System.

34 (c) It is the intent of the Legislature that transfers from the Motor
35 Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund
36 should reflect the full range of motorized vehicle use off highway
37 for both motorized recreation and motorized off-road access to
38 other recreation opportunities. Therefore, the Legislature finds that
39 the fuel tax baseline established in subdivision (b), attributable to
40 off-highway estimates of use as of the 2006–07 fiscal year,

1 accounts for the three categories of vehicles that have been found
2 over the years to be users of fuel for off-highway motorized
3 recreation or motorized access to nonmotorized recreational
4 pursuits. These three categories are registered off-highway
5 motorized vehicles, registered street-legal motorized vehicles used
6 off highway, and unregistered off-highway motorized vehicles.

7 (d) It is the intent of the Legislature that the off-highway motor
8 vehicle recreational use to be determined by the Department of
9 Transportation pursuant to paragraph (2) of subdivision (b) be that
10 usage by vehicles subject to registration under Division 3
11 (commencing with Section 4000) of the Vehicle Code, for
12 recreation or the pursuit of recreation on surfaces where the use
13 of vehicles registered under Division 16.5 (commencing with
14 Section 38000) of the Vehicle Code may occur.

15 (e) In the 2014–15 fiscal year, the Department of Transportation,
16 in consultation with the Department of Parks and Recreation and
17 the Department of Motor Vehicles, shall undertake a study to
18 determine the appropriate adjustment to the amount transferred
19 pursuant to subdivision (b) and to update the estimate of the amount
20 attributable to taxes imposed upon distributions of motor vehicle
21 fuel used in the operation of motor vehicles off highway and for
22 which a refund has not been claimed. The department shall provide
23 a copy of this study to the Legislature no later than January 1,
24 2016.

25 SEC. 22. Section 60050 of the Revenue and Taxation Code is
26 amended to read:

27 60050. (a) (1) A tax of ~~eighteen~~ *thirteen* cents (~~\$0.18~~) (*\$0.13*)
28 is hereby imposed upon each gallon of diesel fuel subject to the
29 tax in Sections 60051, 60052, and 60058.

30 (2) If the federal fuel tax is reduced below the rate of fifteen
31 cents (\$0.15) per gallon and federal financial allocations to this
32 state for highway and exclusive public mass transit guideway
33 purposes are reduced or eliminated correspondingly, the tax rate
34 imposed by paragraph (1), ~~including any reduction or adjustment~~
35 ~~pursuant to subdivision (b), on and after the date of the reduction,~~
36 *(1)* shall be increased by an amount so that the combined state rate
37 under paragraph (1) and the federal tax rate per gallon equal what
38 it would have been in the absence of the federal reduction.

1 (3) If any person or entity is exempt or partially exempt from
2 the federal fuel tax at the time of a reduction, the person or entity
3 shall continue to be exempt under this section.

4 ~~(b) (1) On July 1, 2011, the tax rate specified in paragraph (1)~~
5 ~~of subdivision (a) shall be reduced to thirteen cents (\$0.13) and~~
6 ~~every July 1 thereafter shall be adjusted pursuant to paragraphs~~
7 ~~(2) and (3).~~

8 ~~(2) For the 2012–13 fiscal year and each fiscal year thereafter,~~
9 ~~the board shall, on or before March 1 of the fiscal year immediately~~
10 ~~preceding the applicable fiscal year, adjust the rate reduction in~~
11 ~~paragraph (1) in that manner as to result in a revenue loss~~
12 ~~attributable to paragraph (1) that will equal the amount of revenue~~
13 ~~gain attributable to Sections 6051.8 and 6201.8, based on estimates~~
14 ~~made by the board, and that rate shall be effective during the state's~~
15 ~~next fiscal year.~~

16 ~~(3) In order to maintain revenue neutrality for each year,~~
17 ~~beginning with the rate adjustment on or before March 1, 2013,~~
18 ~~the adjustment under paragraph (2) shall take into account the~~
19 ~~extent to which the actual amount of revenues derived pursuant to~~
20 ~~Sections 6051.8 and 6201.8 and the revenue loss attributable to~~
21 ~~this subdivision resulted in a net revenue gain or loss for the fiscal~~
22 ~~year ending prior to the rate adjustment date on or before March~~
23 ~~1.~~

24 ~~(4) The intent of paragraphs (2) and (3) is to ensure that the act~~
25 ~~adding this subdivision and Sections 6051.8 and 6201.8 does not~~
26 ~~produce a net revenue gain in state taxes.~~

27 *(b) In addition to the tax imposed pursuant to subdivision (a),*
28 *on and after the first day of the first calendar quarter that occurs*
29 *120 days after the effective date of the act amending this*
30 *subdivision in the 2017–18 Regular Session, an additional tax of*
31 *twenty cents (\$0.20) is hereby imposed upon each gallon of diesel*
32 *fuel subject to the tax in Sections 60051, 60052, and 60058.*

33 *(c) Beginning July 1, 2019, and every third year thereafter, the*
34 *State Board of Equalization shall recompute the rates of the taxes*
35 *imposed by this section. That computation shall be made as*
36 *follows:*

37 *(1) The Department of Finance shall transmit to the State Board*
38 *of Equalization the percentage change in the California Consumer*
39 *Price Index for all items from November of three calendar years*

1 prior to November of the prior calendar year; no later than January
2 31, 2019, and January 31 of every third year thereafter.

3 (2) The State Board of Equalization shall do all of the following:

4 (A) Compute an inflation adjustment factor by adding 100
5 percent to the percentage change figure that is furnished pursuant
6 to paragraph (1) and dividing the result by 100.

7 (B) Multiply the preceding tax rate per gallon by the inflation
8 adjustment factor determined in subparagraph (A) and round off
9 the resulting product to the nearest tenth of a cent.

10 (C) Make its determination of the new rate no later than March
11 1 of the same year as the effective date of the new rate.

12 SEC. 23. Section 183.1 of the Streets and Highways Code is
13 amended to read:

14 183.1. ~~(a) Notwithstanding subdivision (a) of Except as~~
15 ~~otherwise provided in Section 182 or any other provision 54237.7~~
16 ~~of law, the Government Code, money deposited into the account~~
17 ~~that is not subject to Article XIX of the California Constitution,~~
18 ~~including, but not limited to, money that is derived from the sale~~
19 ~~of documents, charges for miscellaneous services to the public,~~
20 ~~condemnation deposits fund investments, rental of state property,~~
21 ~~or any other miscellaneous uses of property or money, may shall~~
22 ~~be used for any transportation purpose authorized by statute, upon~~
23 ~~appropriation by deposited in the Legislature or, after transfer Road~~
24 ~~Maintenance and Rehabilitation Account created pursuant to~~
25 ~~another fund, upon appropriation by the Legislature from that fund.~~
26 ~~Section 2031.~~

27 ~~(b) Commencing with the 2013-14 fiscal year, and not later~~
28 ~~than November 1 of each fiscal year thereafter, based on prior year~~
29 ~~financial statements, the Controller shall transfer the funds~~
30 ~~identified in subdivision (a) for the prior fiscal year from the State~~
31 ~~Highway Account to the Transportation Debt Service Fund in the~~
32 ~~State Transportation Fund, and those funds are continuously~~
33 ~~appropriated for the purposes specified for the Transportation Debt~~
34 ~~Service Fund.~~

35 SEC. 24. Section 820.1 is added to the Streets and Highways
36 Code, to read:

37 820.1. (a) The State of California consents to the jurisdiction
38 of the federal courts with regard to the compliance, discharge, or
39 enforcement of the responsibilities assumed by the department

1 pursuant to Sections 326 and 327(a) of Title 23 of the United States
2 Code.

3 (b) In any action brought pursuant to the federal laws described
4 in subdivision (a), no immunity from suit may be asserted by the
5 department pursuant to the Eleventh Amendment to the United
6 States Constitution, and any immunity is hereby waived.

7 (c) The department shall not delegate any of its responsibilities
8 assumed pursuant to the federal laws described in subdivision (a)
9 to any political subdivision of the state or its instrumentalities.

10 (d) Nothing in this section affects the obligation of the
11 department to comply with state and federal law.

12 SEC. 25. Chapter 2 (commencing with Section 2030) is added
13 to Division 3 of the Streets and Highways Code, to read:

14
15 CHAPTER 2. ROAD MAINTENANCE AND REHABILITATION
16 PROGRAM
17

18 2030. (a) The Road Maintenance and Rehabilitation Program
19 is hereby created to address deferred maintenance on the state
20 highway system and the local street and road system. Funds made
21 available by the program shall be prioritized for expenditure on
22 basic road maintenance and road rehabilitation projects, and on
23 critical safety projects. For funds appropriated pursuant to
24 paragraph (1) of subdivision (d) of Section 2032, the California
25 Transportation Commission shall adopt performance criteria,
26 consistent with the asset management plan required pursuant to
27 14526.4 of the Government Code, to ensure efficient use of the
28 funds available for these purposes in the program.

29 (b) (1) Funds made available by the program shall be used for
30 projects that include, but are not limited to, the following:

31 (A) Road maintenance and rehabilitation.

32 (B) Safety projects.

33 (C) Railroad grade separations.

34 (D) Complete street components, including active transportation
35 purposes, pedestrian and bicycle safety projects, transit facilities,
36 and drainage and stormwater capture projects in conjunction with
37 any other allowable project.

38 (E) Traffic control devices.

(2) Funds made available by the program may also be used to satisfy a match requirement in order to obtain state or federal funds for projects authorized by this subdivision.

2031. The following revenues shall be deposited in the Road Maintenance and Rehabilitation Account, which is hereby created in the State Transportation Fund:

(a) The portion of the revenues in the Highway Users Tax Account attributable to the increase in the motor vehicle fuel excise tax pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 7360 of the Revenue and Taxation Code, as adjusted pursuant to subdivision (c) of that section.

(b) The revenues from the increase in the vehicle registration fee pursuant to Section 9250.3 of the Vehicle Code, as adjusted pursuant to subdivision (b) of that section.

(c) The revenues from the increase in the vehicle registration fee pursuant to Section 9250.6 of the Vehicle Code, as adjusted pursuant to subdivision (b) of that section.

(d) The revenues deposited in the account pursuant to Section 183.1 of the Streets and Highways Code.

(e) Any other revenues designated for the program.

2031.5. Each fiscal year the annual Budget Act shall contain an appropriation from the Road Maintenance and Rehabilitation Account to the Controller for the costs of carrying out his or her duties pursuant to this chapter and to the California Transportation Commission for the costs of carrying out its duties pursuant to this chapter and Section 14526.7 of the Government Code.

2032. (a) (1) After deducting the amounts appropriated in the annual Budget Act, as provided in Section 2031.5, two hundred million dollars (\$200,000,000) of the remaining revenues deposited in the Road Maintenance and Rehabilitation Account shall be set aside annually for counties that have sought and received voter approval of taxes or that have imposed fees, including uniform developer fees as defined by subdivision (b) of Section 8879.67 of the Government Code, which taxes or fees are dedicated solely to transportation improvements. The Controller shall each month set aside one-twelfth of this amount, to accumulate a total of two hundred million dollars (\$200,000,000) in each fiscal year.

(2) Notwithstanding Section 13340 of the Government Code, the funds available under this subdivision in each fiscal year are hereby continuously appropriated for allocation to each eligible

1 county and each city in the county for road maintenance and
2 rehabilitation purposes pursuant to Section 2033.

3 (b) (1) After deducting the amounts appropriated in the annual
4 Budget Act pursuant to Section 2031.5 and the amount allocated
5 in subdivision (a), beginning in the 2017–18 fiscal year, eighty
6 million dollars (\$80,000,000) of the remaining revenues shall be
7 transferred annually to the State Highway Account for expenditure,
8 upon appropriation by the Legislature, on the Active Transportation
9 Program created pursuant to Chapter 8 (commencing with Section
10 2380) of Division 3 to be allocated by the California Transportation
11 Commission pursuant to Section 2381.

12 (2) In addition to the funds transferred in paragraph (1), the
13 department shall annually identify savings achieved through
14 efficiencies implemented at the department. The department,
15 through the annual budget process, shall propose, from the
16 identified savings, an appropriation to be included in the annual
17 Budget Act of up to seventy million dollars (\$70,000,000), but not
18 to exceed the total annual identified savings, from the State
19 Highway Account for expenditure on the Active Transportation
20 Program.

21 (c) After deducting the amounts appropriated in the annual
22 Budget Act pursuant to Section 2031.5, the amount allocated in
23 subdivision (a) and the amount transferred in paragraph (1) of
24 subdivision (b), in the 2017–18, 2018–19, 2019–20, and 2020–21
25 fiscal years, the sum of thirty million dollars (\$30,000,000) in each
26 fiscal year from the remaining revenues shall be transferred to the
27 Advance Mitigation Fund in the State Transportation Fund created
28 pursuant to Section 21207 of the Public Resources Code.

29 (d) After deducting the amounts appropriated in the annual
30 Budget Act pursuant to Section 2031.5, the amount allocated in
31 subdivision (a), and the amounts transferred in paragraph (1) of
32 subdivision (b) and in subdivision (c), beginning in the 2017–18
33 fiscal year and each fiscal year thereafter, and notwithstanding
34 Section 13340 of the Government Code, there is hereby
35 continuously appropriated to the California State University the
36 sum of two million dollars (\$2,000,000) from the remaining
37 revenues for the purpose of conducting transportation research and
38 transportation-related workforce education, training, and
39 development, and to the institutes for transportation studies at the
40 University of California the sum of three million dollars

1 (\$3,000,000). Prior to the start of each fiscal year, the chairs of the
2 Assembly Committee on Transportation and the Senate Committee
3 on Transportation and Housing shall confer and set out a
4 recommended priority list of research components to be addressed
5 in the upcoming fiscal year.

6 (e) Notwithstanding Section 13340 of the Government Code,
7 the balance of the revenues deposited in the Road Maintenance
8 and Rehabilitation Account are hereby continuously appropriated
9 as follows:

10 (1) Fifty percent for allocation to the department for maintenance
11 of the state highway system or for purposes of the state highway
12 operation and protection program.

13 (2) Fifty percent for apportionment to cities and counties by the
14 Controller pursuant to the formula in clauses (i) and (ii) of
15 subparagraph (C) of paragraph (3) of subdivision (a) of Section
16 2103 for the purposes authorized by this chapter.

17 2033. (a) On or before July 1, 2017, the commission, in
18 cooperation with the department, transportation planning agencies,
19 county transportation commissions, and other local agencies, shall
20 develop guidelines for the allocation of funds pursuant to
21 subdivision (a) of Section 2032.

22 (b) The guidelines shall be the complete and full statement of
23 the policy, standards, and criteria that the commission intends to
24 use to determine how these funds will be allocated.

25 (c) The commission may amend the adopted guidelines after
26 conducting at least one public hearing.

27 2034. (a) (1) Prior to receiving an apportionment of funds
28 under the program pursuant to paragraph (2) of subdivision (e) of
29 Section 2032 from the Controller in a fiscal year, an eligible city
30 or county shall submit to the commission a list of projects proposed
31 to be funded with these funds pursuant to an adopted city or county
32 budget. All projects proposed to receive funding shall be included
33 in a city or county budget that is adopted by the applicable city
34 council or county board of supervisors at a regular public meeting.
35 The list of projects proposed to be funded with these funds shall
36 include a description and the location of each proposed project, a
37 proposed schedule for the project's completion, and the estimated
38 useful life of the improvement. The project list shall not limit the
39 flexibility of an eligible city or county to fund projects in

1 accordance with local needs and priorities so long as the projects
2 are consistent with subdivision (b) of Section 2030.

3 (2) The commission shall report to the Controller the cities and
4 counties that have submitted a list of projects as described in this
5 subdivision and that are therefore eligible to receive an
6 apportionment of funds under the program for the applicable fiscal
7 year. The Controller, upon receipt of the report, shall apportion
8 funds to eligible cities and counties.

9 (b) For each fiscal year, each city or county receiving an
10 apportionment of funds shall, upon expending program funds,
11 submit documentation to the commission that includes a description
12 and location of each completed project, the amount of funds
13 expended on the project, the completion date, and the estimated
14 useful life of the improvement.

15 2036. (a) Cities and counties shall maintain their existing
16 commitment of local funds for street, road, and highway purposes
17 in order to remain eligible for an allocation or apportionment of
18 funds pursuant to Section 2032.

19 (b) In order to receive an allocation or apportionment pursuant
20 to Section 2032, the city or county shall annually expend from its
21 general fund for street, road, and highway purposes an amount not
22 less than the annual average of its expenditures from its general
23 fund during the 2009–10, 2010–11, and 2011–12 fiscal years, as
24 reported to the Controller pursuant to Section 2151. For purposes
25 of this subdivision, in calculating a city's or county's annual
26 general fund expenditures and its average general fund expenditures
27 for the 2009–10, 2010–11, and 2011–12 fiscal years, any
28 unrestricted funds that the city or county may expend at its
29 discretion, including vehicle in-lieu tax revenues and revenues
30 from fines and forfeitures, expended for street, road, and highway
31 purposes shall be considered expenditures from the general fund.
32 One-time allocations that have been expended for street and
33 highway purposes, but which may not be available on an ongoing
34 basis, including revenue provided under the Teeter Plan Bond Law
35 of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1
36 of Division 2 of Title 5 of the Government Code), may not be
37 considered when calculating a city's or county's annual general
38 fund expenditures.

39 (c) For any city incorporated after July 1, 2009, the Controller
40 shall calculate an annual average expenditure for the period

1 between July 1, 2009, and December 31, 2015, inclusive, that the
2 city was incorporated.

3 (d) For purposes of subdivision (b), the Controller may request
4 fiscal data from cities and counties in addition to data provided
5 pursuant to Section 2151, for the 2009–10, 2010–11, and 2011–12
6 fiscal years. Each city and county shall furnish the data to the
7 Controller not later than 120 days after receiving the request. The
8 Controller may withhold payment to cities and counties that do
9 not comply with the request for information or that provide
10 incomplete data.

11 (e) The Controller may perform audits to ensure compliance
12 with subdivision (b) when deemed necessary. Any city or county
13 that has not complied with subdivision (b) shall reimburse the state
14 for the funds it received during that fiscal year. Any funds withheld
15 or returned as a result of a failure to comply with subdivision (b)
16 shall be reapportioned to the other cities and counties whose
17 expenditures are in compliance.

18 (f) If a city or county fails to comply with the requirements of
19 subdivision (b) in a particular fiscal year, the city or county may
20 expend during that fiscal year and the following fiscal year a total
21 amount that is not less than the total amount required to be
22 expended for those fiscal years for purposes of complying with
23 subdivision (b).

24 2037. A city or county may spend its apportionment of funds
25 under the program on transportation priorities other than those
26 allowable pursuant to this chapter if the city's or county's average
27 Pavement Condition Index meets or exceeds 80.

28 2038. (a) The department and local agencies, as a condition
29 of receiving funds from the program, shall adopt and implement
30 a program designed to promote and advance construction
31 employment and training opportunities through preapprenticeship
32 opportunities, either by the public agency itself or through
33 contractors engaged by the public agencies to do work funded in
34 whole or in part by funds made available by the program.

35 (b) The department and local agencies, as a condition of
36 receiving funds from the program, shall ensure the involvement
37 of the California Conservation Corps and certified community
38 conservation corps in the delivery of projects and services funded
39 in whole or in part by funds made available by the program.

1 SEC. 26. Section 2103.1 is added to the Streets and Highways
2 Code, to read:

3 2103.1. (a) Notwithstanding Section 2103, the revenues
4 transferred to the Highway Users Tax Account pursuant to Sections
5 8352.4, 8352.5, and 8352.6 of the Revenue and Taxation Code
6 shall be distributed pursuant to the formula in paragraph (3) of
7 subdivision (a) of Section 2103.

8 (b) Notwithstanding subdivision (b) of Section 2103, the portion
9 of revenues in the Highway Users Tax Account attributable to the
10 increase in the motor vehicle fuel excise tax pursuant to
11 subparagraph (B) of paragraph (1) of subdivision (a) of Section
12 7360 of the Revenue and Taxation Code, as adjusted pursuant to
13 subdivision (c) of that section, shall be transferred to the Road
14 Maintenance and Rehabilitation Account pursuant to Section 2031.

15 (c) Notwithstanding subdivision (b) of Section 2103, the portion
16 of revenues in the Highway Users Tax Account attributable to the
17 increase in the diesel fuel excise tax pursuant to subdivision (b)
18 of Section 60050 of the Revenue and Taxation Code, as adjusted
19 pursuant to subdivision (c) of that section, shall be transferred to
20 the Trade Corridors Improvement Fund pursuant to Section 2192.4.

21 SEC. 27. Section 2192 of the Streets and Highways Code is
22 amended to read:

23 2192. (a) (1) The Trade Corridors Improvement Fund, created
24 pursuant to subdivision (c) of Section 8879.23 of the Government
25 Code, is hereby continued in existence to receive revenues from
26 state sources other than the Highway Safety, Traffic Reduction,
27 Air Quality, and Port Security Bond Act of 2006. ~~This chapter~~
28 ~~shall govern expenditure of those other revenues.~~

29 (2) *Revenues apportioned to the state under Section 167 of Title*
30 *23 of the United States Code from the national highway freight*
31 *program, pursuant to the federal Fixing America's Surface*
32 *Transportation Act ("FAST Act," Public Law 114-94) shall be*
33 *allocated for projects approved pursuant to this chapter.*

34 (b) *This chapter shall govern the expenditure of those state and*
35 *federal revenues described in subdivision (a).*

36 ~~(b)~~
37 (c) ~~The moneys funding described in the fund from those other~~
38 ~~sources subdivision (a) shall be available upon appropriation for~~
39 ~~allocation by the California Transportation Commission for~~
40 ~~infrastructure improvements in this state on federally designated~~

1 Trade Corridors of National and Regional Significance, on the
2 Primary Freight Network, and along other corridors that have a
3 high volume of freight movement, as determined by the
4 commission. In determining the projects eligible for funding, the
5 commission shall consult the Transportation Agency's state freight
6 plan as described in Section 13978.8 of the Government Code, the
7 ~~State Air Resources Board's Sustainable Freight Strategy adopted~~
8 ~~by Resolution 14-2, Code~~ and the trade infrastructure and goods
9 movement plan submitted to the commission by the Secretary of
10 Transportation and the Secretary for Environmental Protection.
11 *California Sustainable Freight Action Plan released in July 2016*
12 *pursuant to Executive Order B-32-15.* The commission shall also
13 consult trade infrastructure and goods movement plans adopted
14 by regional transportation planning agencies, adopted regional
15 transportation plans required by state and federal law, and the
16 statewide applicable port master plan prepared by the California
17 Marine and Intermodal Transportation System Advisory Council
18 ~~(Cal-MITSAC) pursuant to Section 1730 of the Harbors and~~
19 ~~Navigation Code~~, when determining eligible projects for funding.
20 Eligible projects for ~~these funds~~ *funding described in subdivision*
21 *(a) shall further the state's economic, environmental, and public*
22 *health objectives and goals for freight policy, as articulated in the*
23 *plans to be consulted pursuant to this subdivision, and may include,*
24 but are not limited to, all of the following:

25 (1) Highway capacity improvements, rail landside access
26 improvements, landside freight access improvements to airports,
27 and operational improvements to more efficiently accommodate
28 the movement of freight, particularly for ingress and egress to and
29 from the state's land ports of ~~entry~~ entry, rail terminals, and
30 seaports, including navigable inland waterways used to transport
31 freight between seaports, land ports of entry, and airports, and to
32 relieve traffic congestion along major trade or goods movement
33 corridors.

34 (2) Freight rail system improvements to enhance the ability to
35 move goods from seaports, land ports of entry, and airports to
36 warehousing and distribution centers throughout California,
37 including projects that separate rail lines from highway or local
38 road traffic, improve freight rail mobility through mountainous
39 regions, relocate rail switching yards, and other projects that
40 improve the efficiency and capacity of the rail freight system.

1 (3) Projects to enhance the capacity and efficiency of ports.

2 (4) Truck corridor *and capital and operational* improvements,
3 including dedicated truck facilities or truck toll facilities.

4 (5) Border ~~access~~ *capital and operational* improvements that
5 enhance goods movement between California and Mexico and that
6 maximize the state's ability to access ~~coordinated border~~
7 ~~infrastructure~~ funds made available to the state by federal law.

8 (6) Surface transportation and connector road improvements to
9 effectively facilitate the movement of goods, particularly for
10 ingress and egress to and from the state's land ports of entry,
11 airports, and seaports, to relieve traffic congestion along major
12 trade or goods movement corridors.

13 (e)

14 (d) (1) ~~The~~ *In selecting projects for inclusion in the program*
15 *of projects to be funded with funds described in subdivision (a),*
16 *the commission shall allocate funds for trade infrastructure*
17 ~~improvements from the fund~~ *evaluate the total potential costs and*
18 *total potential economic and noneconomic benefits of the program*
19 *to California's economy, environment, and public health. The*
20 *commission shall consult with the State Air Resources Board in*
21 *order to utilize the appropriate models, techniques, and methods*
22 *to develop the parameters for evaluation of projects. The*
23 *commission shall allocate the funding described in subdivision (a)*
24 *for trade infrastructure improvements* consistent with Section
25 8879.52 of the Government Code and the Trade Corridors
26 Improvement Fund (TCIF) Guidelines adopted by the commission
27 on November 27, 2007, or as amended by the commission, and in
28 a manner that (A) addresses the state's most urgent needs, (B)
29 balances the demands of various land ports of entry, seaports, and
30 airports, (C) provides reasonable geographic balance between the
31 state's regions, ~~and~~ (D) places emphasis on projects that improve
32 trade corridor mobility *and safety* while reducing emissions of
33 diesel ~~particulate~~ *particulates, greenhouse gases, and other*
34 ~~pollutant emissions. pollutants, and reducing other negative~~
35 *community impacts, and (E) makes a significant contribution to*
36 *the state's economy.*

37 (2) *In adopting amended guidelines, and developing and*
38 *adopting the program of projects, the commission shall do all of*
39 *the following:*

1 (A) *Accept nominations for projects to be included in the*
2 *program of projects from regional and local transportation*
3 *agencies and the Department of Transportation.*

4 (B) *Recognize the key role of the state in project identification*
5 *and support integrating statewide goods movement priorities into*
6 *the corridor approach.*

7 (C) *Make a finding that adoption and delivery of the program*
8 *of projects is in the public interest.*

9 (2)

10 (3) In addition, the commission shall also consider the following
11 factors when allocating these funds:

12 (A) “Velocity,” which means the speed by which large cargo
13 would travel from the land port of entry or seaport through the
14 distribution system.

15 (B) “Throughput,” which means the volume of cargo that would
16 move from the land port of entry or seaport through the distribution
17 system.

18 (C) “Reliability,” which means a reasonably consistent and
19 predictable amount of time for cargo to travel from one point to
20 another on any given day or at any given time in California.

21 (D) “Congestion reduction,” which means the reduction in
22 recurrent daily hours of delay to be achieved.

23 SEC. 28. Section 2192.1 of the Streets and Highways Code is
24 amended to read:

25 2192.1. (a) To the extent moneys from the Greenhouse Gas
26 Reduction Fund, attributable to the auction or sale of allowances
27 as part of a market-based compliance mechanism relative to
28 reduction of greenhouse gas emissions, are transferred to the Trade
29 Corridors Improvement Fund, projects funded with those moneys
30 shall be subject to all of the requirements of existing law applicable
31 to the expenditure of moneys appropriated from the Greenhouse
32 Gas Reduction Fund, including, but not limited to, ~~both~~ *all* of the
33 following:

34 (1) Projects shall further the regulatory purposes of the
35 California Global Warming Solutions Act of 2006 (Division 25.5
36 (commencing with Section 38500) of the Health and Safety Code),
37 including reducing emissions from greenhouse gases in the state,
38 directing public and private investment toward disadvantaged
39 communities, increasing the diversity of energy sources, or creating
40 opportunities for businesses, public agencies, nonprofits, and other

1 community institutions to participate in and benefit from statewide
2 efforts to reduce emissions of greenhouse gases.

3 (2) Projects shall be consistent with the guidance developed by
4 the State Air Resources Board pursuant to Section 39715 of the
5 Health and Safety Code.

6 (3) *Projects shall be consistent with the required benefits to*
7 *disadvantaged communities pursuant to Section 39713 of the*
8 *Health and Safety Code.*

9 (b) All allocations of funds made by the commission pursuant
10 to this section shall be made in a manner consistent with the criteria
11 expressed in Section 39712 of the Health and Safety Code and
12 with the investment plan developed by the Department of Finance
13 pursuant to Section 39716 of the Health and Safety Code.

14 (c) *For purposes of this section, "disadvantaged community"*
15 *means a community with any of the following characteristics:*

16 (1) *An area with a median household income less than 80*
17 *percent of the statewide median household income based on the*
18 *most current census tract-level data from the American Community*
19 *Survey.*

20 (2) *An area identified by the California Environmental*
21 *Protection Agency pursuant to Section 39711 of the Health and*
22 *Safety Code.*

23 (3) *An area where at least 75 percent of public school students*
24 *are eligible to receive free or reduced-price meals under the*
25 *National School Lunch Program.*

26 SEC. 29. Section 2192.2 of the Streets and Highways Code is
27 amended to read:

28 2192.2. The commission shall allocate funds made available
29 by this chapter to projects that have identified and committed
30 supplemental funding from appropriate local, federal, or private
31 sources. The commission shall determine the appropriate amount
32 of supplemental funding each project should have to be eligible
33 for moneys from the fund based on a project-by-project review
34 and an assessment of the project's benefit to the state and the
35 program. ~~Except for border access Funded improvements described~~
36 ~~in paragraph (5) of subdivision (b) of Section 2192, improvements~~
37 ~~funded with moneys from the fund shall have supplemental funding~~
38 ~~that is at least equal to the amount of the contribution from the~~
39 ~~fund. under this chapter.~~ The commission may give priority for

1 funding to projects with higher levels of committed supplemental
2 funding.

3 SEC. 30. Section 2192.4 is added to the Streets and Highways
4 Code, to read:

5 2192.4. The portion of the revenues in the Highway Users Tax
6 Account attributable to the increase in the diesel fuel excise tax
7 pursuant to subdivision (b) of Section 60050 of the Revenue and
8 Taxation Code, as adjusted pursuant to subdivision (c) of that
9 section, shall be transferred to the Trade Corridors Improvement
10 Fund.

11 SEC. 31. Section 9250.3 is added to the Vehicle Code, to read:

12 9250.3. (a) In addition to any other fees specified in this code
13 or the Revenue and Taxation Code, commencing July 1, 2017, a
14 registration fee of thirty-eight dollars (\$38) shall be paid to the
15 department for registration or renewal of registration of every
16 vehicle subject to registration under this code, except those vehicles
17 that are expressly exempted under this code from payment of
18 registration fees.

19 (b) Beginning July 1, 2019, and every third year thereafter, the
20 Department of Motor Vehicles shall adjust the fee imposed under
21 this section for inflation in an amount equal to the change in the
22 California Consumer Price Index for the prior three-year period,
23 as calculated by the Department of Finance, with amounts equal
24 to or greater than fifty cents (\$0.50) rounded to the next highest
25 whole dollar.

26 (c) Revenues from the fee, after the deduction of the
27 department's administrative costs related to this section, shall be
28 deposited in the Road Maintenance and Rehabilitation Account
29 created pursuant to Section 2031 of the Streets and Highways
30 Code.

31 SEC. 32. Section 9250.6 is added to the Vehicle Code, to read:

32 9250.6. (a) In addition to any other fees specified in this code,
33 or the Revenue and Taxation Code, commencing July 1, 2017, a
34 registration fee of one hundred and sixty-five dollars (\$165) shall
35 be paid to the department for registration or renewal of registration
36 of every zero-emission motor vehicle subject to registration under
37 this code, except those motor vehicles that are expressly exempted
38 under this code from payment of registration fees.

39 (b) Beginning July 1, 2019, and every third year thereafter, the
40 Department of Motor Vehicles shall adjust the fee imposed under

1 this section for inflation in an amount equal to the change in the
2 California Consumer Price Index for the prior three-year period,
3 as calculated by the Department of Finance, with amounts equal
4 to or greater than fifty cents (\$0.50) rounded to the next highest
5 whole dollar.

6 (c) Revenues from the fee, after deduction of the department's
7 administrative costs related to this section, shall be deposited in
8 the Road Maintenance and Rehabilitation Account created pursuant
9 to Section 2031 of the Streets and Highways Code.

10 (d) This section does not apply to a commercial motor vehicle
11 subject to Section 9400.1 or to a low-speed vehicle, as defined in
12 Section 385.5.

13 (e) The registration fee required pursuant to this section does
14 not apply to the initial registration after the purchase of a new
15 zero-emission motor vehicle.

16 (f) For purposes of this section, "zero-emission motor vehicle"
17 means a motor vehicle as described in subdivisions (c) and (d) of
18 Section 44258 of the Health and Safety Code.

19 SEC. 33. Section 9400.5 is added to the Vehicle Code, to read:

20 9400.5. (a) Notwithstanding Sections 9400.1, 9400.4, and
21 42205 of this code, Sections 16773 and 16965 of the Government
22 Code, Section 2103 of the Streets and Highways Code, or any
23 other law, weight fee revenues shall only be transferred consistent
24 with the schedule provided in subdivision (b) from the State
25 Highway Account to the Transportation Debt Service Fund, the
26 Transportation Bond Direct Payment Account, or any other fund
27 or account for the purpose of payment of the debt service on
28 transportation general obligation bonds and shall not be loaned to
29 the General Fund.

30 (b) (1) The transfer of weight fee revenues, after deduction of
31 collection costs, from the State Highway Account pursuant to
32 subdivision (a) shall not exceed:

33 (A) Nine hundred million dollars (\$900,000,000) in the 2017–18
34 fiscal year.

35 (B) Eight hundred million dollars (\$800,000,000) in the 2018–19
36 fiscal year.

37 (C) Seven hundred million dollars (\$700,000,000) in the
38 2019–20 fiscal year.

39 (D) Six hundred million dollars (\$600,000,000) in the 2020–21
40 fiscal year.

1 (E) Five hundred million dollars (\$500,000,000) in the 2021-22
2 fiscal year and in every fiscal year thereafter.

3 SEC. 34. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or safety within
5 the meaning of Article IV of the Constitution and shall go into
6 immediate effect. The facts constituting the necessity are:

7 In order to provide additional funding for road maintenance and
8 rehabilitation purposes as quickly as possible, it is necessary for
9 this act to take effect immediately.

O

115TH CONGRESS
1ST SESSION

S. 32

To provide for conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 5, 2017

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “California Desert Protection and Recreation Act of
6 2017”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CALIFORNIA DESERT CONSERVATION AND RECREATION

Sec. 101. California Desert conservation and recreation.

Sec. 102. Visitor center.

Sec. 103. California State school land.

Sec. 104. Designation of wild and scenic rivers.

Sec. 105. Conforming amendments.

TITLE II—DEVELOPMENT OF RENEWABLE ENERGY ON PUBLIC
LAND

Sec. 201. Definitions.

Sec. 202. Disposition of revenues.

1 **TITLE I—CALIFORNIA DESERT**
2 **CONSERVATION AND RECRE-**
3 **ATION**4 **SEC. 101. CALIFORNIA DESERT CONSERVATION AND**
5 **RECREATION.**6 (a) IN GENERAL.—Public Law 103–433 (16 U.S.C.
7 410aaa et seq.) is amended by adding at the end the fol-
8 lowing:9 **“TITLE XIII—WILDERNESS**10 **“SEC. 1301. DESIGNATION OF WILDERNESS AREAS.**11 “(a) DESIGNATION OF WILDERNESS AREAS TO BE
12 ADMINISTERED BY THE BUREAU OF LAND MANAGE-
13 MENT.—In accordance with the Wilderness Act (16 U.S.C.
14 1131 et seq.) and sections 601 and 603 of the Federal
15 Land Policy and Management Act of 1976 (43 U.S.C.
16 1781, 1782), the following land in the State is designated
17 as wilderness areas and as components of the National
18 Wilderness Preservation System:

1 **“SEC. 1504. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated such sums
3 as are necessary to carry out this title.

4 **“TITLE XVI—OFF-HIGHWAY**
5 **VEHICLE RECREATION AREAS**

6 **“SEC. 1601. DESIGNATION OF OFF-HIGHWAY VEHICLE**
7 **RECREATION AREAS.**

8 “(a) IN GENERAL.—

9 “(1) DESIGNATION.—In accordance with the
10 Federal Land Policy and Management Act of 1976
11 (43 U.S.C. 1701 et seq.) and resource management
12 plans developed under this title and subject to valid
13 rights, the following land within the Conservation
14 Area in San Bernardino County, California, is des-
15 ignated as Off-Highway Vehicle Recreation Areas:

16 “(A) DUMONT DUNES OFF-HIGHWAY VEHI-
17 CLE RECREATION AREA.—Certain Bureau of
18 Land Management land in the Conservation
19 Area, comprising approximately 7,630 acres, as
20 generally depicted on the map entitled ‘Dumont
21 Dunes Proposed National OHV Recreation
22 Area’ and dated January 5, 2015, which shall
23 be known as the ‘Dumont Dunes Off-Highway
24 Vehicle Recreation Area’.

25 “(B) EL MIRAGE OFF-HIGHWAY VEHICLE
26 RECREATION AREA.—Certain Bureau of Land

1 Management land in the Conservation Area,
2 comprising approximately 14,930 acres, as gen-
3 erally depicted on the map entitled 'El Mirage
4 Proposed National OHV Recreation Area' and
5 dated July 15, 2009, which shall be known as
6 the 'El Mirage Off-Highway Vehicle Recreation
7 Area'.

8 “(C) RASOR OFF-HIGHWAY VEHICLE
9 RECREATION AREA.—Certain Bureau of Land
10 Management land in the Conservation Area,
11 comprising approximately 23,910 acres, as gen-
12 erally depicted on the map entitled 'Rasor Pro-
13 posed National OHV Recreation Area' and
14 dated July 15, 2009, which shall be known as
15 the 'Rasor Off-Highway Vehicle Recreation
16 Area'.

17 “(D) SPANGLER HILLS OFF-HIGHWAY VE-
18 HICLE RECREATION AREA.—Certain Bureau of
19 Land Management land in the Conservation
20 Area, comprising approximately 56,140 acres,
21 as generally depicted on the map entitled
22 'Spangler Hills Proposed National OHV Recre-
23 ation Area' and dated February 19, 2016,
24 which shall be known as the 'Spangler Off-
25 Highway Vehicle Recreation Area'.

1 “(E) STODDARD VALLEY OFF-HIGHWAY
 2 VEHICLE RECREATION AREA.—Certain Bureau
 3 of Land Management land in the Conservation
 4 Area, comprising approximately 40,110 acres,
 5 as generally depicted on the map entitled ‘Stod-
 6 dard Valley Proposed National OHV Recreation
 7 Area’ and dated July 16, 2009, which shall be
 8 known as the ‘Stoddard Valley Off-Highway Ve-
 9 hicle Recreation Area’.

10 “(2) REDESIGNATION AND EXPANSION OF
 11 JOHNSON VALLEY OFF-HIGHWAY VEHICLE RECRE-
 12 ATION AREA.—

13 “(A) IN GENERAL.—The Johnson Valley
 14 Off-Highway Vehicle Recreation Area des-
 15 ignated by section 2945 of the Military Con-
 16 struction Authorization Act for Fiscal Year
 17 2014 (division B of Public Law 113–66; 127
 18 Stat. 1038)—

19 “(i) is redesignated as the ‘Johnson
 20 Valley National Off-Highway Vehicle
 21 Recreation Area’; and

22 “(ii) is expanded to include certain
 23 land as generally depicted on the map enti-
 24 tled ‘Proposed Johnson Valley Off-High-

1 way Vehicle Recreation Area Additions’
2 and dated September 27, 2016.

3 “(B) RELATION TO AUTHORIZED NAVY
4 USE.—The redesignation of the Johnson Valley
5 Off-Highway Vehicle Recreation Area as the
6 Johnson Valley National Off-Highway Vehicle
7 Recreation Area does not alter or interfere with
8 the rights and obligations of the Navy regard-
9 ing the use of portions of the Recreation Area
10 as provided in subtitle C of title XXIX of the
11 Military Construction Authorization Act for
12 Fiscal Year 2014 (division B of Public Law
13 113–66; 127 Stat. 1034).

14 “(C) REFERENCES.—Any reference in any
15 law, regulation, document, record, map, or
16 other paper of the United States to the John-
17 son Valley Off-Highway Vehicle Recreation
18 Area shall be deemed to be a reference to the
19 Johnson Valley National Off-Highway Vehicle
20 Recreation Area.

21 “(b) PURPOSE.—The purpose of the off-highway ve-
22 hicle recreation areas designated or expanded under sub-
23 section (a) is to preserve and enhance the recreational op-
24 portunities within the Conservation Area (including oppor-
25 tunities for off-highway vehicle recreation), while con-

1 serving the wildlife and other natural resource values of
2 the Conservation Area.

3 “(c) MAPS AND DESCRIPTIONS.—

4 “(1) PREPARATION AND SUBMISSION.—As soon
5 as practicable after the date of enactment of this
6 title, the Secretary shall file a map and legal de-
7 scription of each off-highway vehicle recreation area
8 designated or expanded by subsection (a) with—

9 “(A) the Committee on Natural Resources
10 of the House of Representatives; and

11 “(B) the Committee on Energy and Nat-
12 ural Resources of the Senate.

13 “(2) LEGAL EFFECT.—The map and legal de-
14 scriptions of the off-highway vehicle recreation areas
15 filed under paragraph (1) shall have the same force
16 and effect as if included in this title, except that the
17 Secretary may correct errors in the map and legal
18 descriptions.

19 “(3) PUBLIC AVAILABILITY.—Each map and
20 legal description filed under paragraph (1) shall be
21 filed and made available for public inspection in the
22 appropriate offices of the Bureau of Land Manage-
23 ment.

24 “(d) USE OF THE LAND.—

25 “(1) RECREATIONAL ACTIVITIES.—

1 “(A) IN GENERAL.—The Secretary shall
2 continue to authorize, maintain, and enhance
3 the recreational uses of the off-highway vehicle
4 recreation areas designated or expanded by sub-
5 section (a), including off-highway recreation,
6 hiking, camping, hunting, mountain biking,
7 sightseeing, rockhounding, and horseback
8 riding, as long as the recreational use is con-
9 sistent with this section and any other applica-
10 ble law.

11 “(B) OFF-HIGHWAY VEHICLE AND OFF-
12 HIGHWAY RECREATION.—To the extent con-
13 sistent with applicable Federal law (including
14 regulations) and this section, any authorized
15 recreation activities and use designations in ef-
16 fect on the date of enactment of this title and
17 applicable to the off-highway vehicle recreation
18 areas designated or expanded by subsection (a)
19 shall continue, including casual off-highway ve-
20 hicular use, racing, competitive events, rock
21 crawling, training, and other forms of off-high-
22 way recreation.

23 “(2) WILDLIFE GUZZLERS.—Wildlife guzzlers
24 shall be allowed in the off-highway vehicle recreation

1 areas designated or expanded by subsection (a) in
2 accordance with—

3 “(A) applicable Bureau of Land Manage-
4 ment guidelines; and

5 “(B) State law.

6 “(3) PROHIBITED USES.—Commercial develop-
7 ment (including development of mining and energy
8 facilities, but excluding energy transport facilities,
9 rights-of-way, and related telecommunication facili-
10 ties) shall be prohibited in the off-highway vehicle
11 recreation areas designated or expanded by sub-
12 section (a) if the Secretary determines that the de-
13 velopment is incompatible with the purpose described
14 in subsection (b).

15 “(e) ADMINISTRATION.—

16 “(1) IN GENERAL.—The Secretary shall admin-
17 ister the off-highway vehicle recreation areas des-
18 igned or expanded by subsection (a) in accordance
19 with—

20 “(A) this title;

21 “(B) the Federal Land Policy and Man-
22 agement Act of 1976 (43 U.S.C. 1701 et seq.);
23 and

24 “(C) any other applicable laws (including
25 regulations).

1 “(2) MANAGEMENT PLAN.—

2 “(A) IN GENERAL.—As soon as prac-
3 ticable, but not later than 3 years after the date
4 of enactment of this title, the Secretary shall—

5 “(i) amend existing resource manage-
6 ment plans applicable to the off-highway
7 vehicle recreation areas designated or ex-
8 panded by subsection (a); or

9 “(ii) develop new management plans
10 for each off-highway vehicle recreation
11 area designated or expanded under that
12 subsection.

13 “(B) REQUIREMENTS.—All new or amend-
14 ed plans under subparagraph (A) shall be de-
15 signed to preserve and enhance safe off-highway
16 vehicle and other recreational opportunities
17 within the applicable recreation area consistent
18 with—

19 “(i) the purpose described in sub-
20 section (b); and

21 “(ii) any applicable laws (including
22 regulations).

23 “(C) INTERIM PLANS.—Pending comple-
24 tion of a new management plan under subpara-
25 graph (A), the existing resource management

1 plans shall govern the use of the applicable off-
2 highway vehicle recreation area.

3 “(f) STUDY.—

4 “(1) IN GENERAL.—As soon as practicable, but
5 not later than 2 years, after the date of enactment
6 of this title, the Secretary shall complete a study to
7 identify Bureau of Land Management land within
8 the Conservation Area that is suitable for addition
9 to the national off-highway vehicle recreation areas
10 designated or expanded by subsection (a).

11 “(2) STUDY AREAS.—The study required under
12 paragraph (1) shall include—

13 “(A) certain Bureau of Land Management
14 land in the Conservation Area, comprising ap-
15 proximately 41,000 acres, as generally depicted
16 on the map entitled ‘Spangler Hills Proposed
17 Expansion Study Area’ and dated January 23,
18 2015;

19 “(B) certain Bureau of Land Management
20 land in the Conservation Area, comprising ap-
21 proximately 680 acres, as generally depicted on
22 the map entitled ‘El Mirage Proposed Expan-
23 sion Study Area’ and dated January 21, 2015;
24 and

1 “(C) certain Bureau of Land Management
2 land in the Conservation Area, comprising ap-
3 proximately 51,600 acres, as generally depicted
4 on the map entitled ‘Johnson Valley Proposed
5 Expansion Study Area’ and dated September
6 27, 2016.

7 “(3) REQUIREMENTS.—In preparing the study
8 under paragraph (1), the Secretary shall—

9 “(A) seek input from stakeholders, includ-
10 ing—

11 “(i) the State, including—

12 “(I) the California Public Utili-
13 ties Commission; and

14 “(II) the California Energy Com-
15 mission;

16 “(ii) San Bernardino County, Cali-
17 fornia;

18 “(iii) the public;

19 “(iv) recreational user groups;

20 “(v) conservation organizations;

21 “(vi) the Southern California Edison
22 Company;

23 “(vii) the Pacific Gas and Electric
24 Company; and

1 “(viii) other Federal agencies, includ-
2 ing the Department of Defense;

3 “(B) explore the feasibility of—

4 “(i) expanding the southern boundary
5 of the off-highway vehicle recreation area
6 described in subsection (a)(1)(C) to include
7 previously disturbed land; and

8 “(ii) establishing a right-of-way for
9 off-highway vehicle use in the areas identi-
10 fied in paragraph (2) to the extent nec-
11 essary to connect the noncontiguous areas
12 of the Johnson Valley National Off-High-
13 way Vehicle Recreation Area;

14 “(C) identify and exclude from consider-
15 ation any land that—

16 “(i) is managed for conservation pur-
17 poses;

18 “(ii) may be suitable for renewable en-
19 ergy development; or

20 “(iii) may be necessary for energy
21 transmission; and

22 “(D) not recommend or approve expansion
23 of national off-highway recreation areas within
24 the Conservation Area that collectively would
25 exceed the total acres administratively des-

1 ignated for off-highway recreation within the
2 Conservation Area as of the day before the date
3 of enactment of the National Defense Author-
4 ization Act for Fiscal Year 2014 (Public Law
5 113-66; 127 Stat. 672).

6 “(4) APPLICABLE LAW.—The Secretary shall
7 consider the information and recommendations of
8 the study completed under paragraph (1) to deter-
9 mine the impacts of expanding off-highway vehicle
10 recreation areas designated or expanded by sub-
11 section (a) on the Conservation Area, in accordance
12 with—

13 “(A) the National Environmental Policy
14 Act of 1969 (42 U.S.C. 4321 et seq.);

15 “(B) the Endangered Species Act of 1973
16 (16 U.S.C. 1531 et seq.); and

17 “(C) any other applicable law (including
18 regulations), plan, and the Desert Renewable
19 Energy Conservation Plan.

20 “(5) SUBMISSION TO CONGRESS.—On comple-
21 tion of the study under paragraph (1), the Secretary
22 shall submit the study to—

23 “(A) the Committee on Natural Resources
24 of the House of Representatives; and

1 “(B) the Committee on Energy and Nat-
2 ural Resources of the Senate.

3 “(6) AUTHORIZATION FOR EXPANSION.—

4 “(A) IN GENERAL.—On completion of the
5 study under paragraph (1) and in accordance
6 with all applicable laws (including regulations),
7 the Secretary shall authorize the expansion of
8 the off-highway vehicle recreation areas rec-
9 ommended under the study.

10 “(B) MANAGEMENT.—Any land within the
11 expanded areas under subparagraph (A) shall
12 be managed in accordance with this section.

13 “(g) SOUTHERN CALIFORNIA EDISON COMPANY
14 UTILITY FACILITIES AND RIGHTS-OF-WAY.—

15 “(1) EFFECT OF TITLE.—Nothing in this
16 title—

17 “(A) terminates any validly issued right-of-
18 way for the customary operation, maintenance,
19 upgrade, repair, relocation within an existing
20 right-of-way, replacement, or other authorized
21 energy transport facility activities (including the
22 use of any mechanized vehicle, helicopter, and
23 other aerial device) in a right-of-way issued,
24 granted, or permitted to Southern California
25 Edison Company (including any predecessor or

1 successor in interest or assign) that is located
2 on land included in—

3 “(i) the El Mirage Off-Highway Vehi-
4 cle Recreation Area;

5 “(ii) the Spangler Hills National Off-
6 Highway Vehicle Recreation Area; or

7 “(iii) the Stoddard Valley National
8 Off Highway Vehicle Recreation Area;

9 “(B) affects the application, siting, route
10 selection, right-of-way acquisition, or construc-
11 tion of the Coolwater-Lugo transmission
12 project, as may be approved by the California
13 Public Utilities Commission and the Bureau of
14 Land Management; or

15 “(C) prohibits the upgrading or replace-
16 ment of any Southern California Edison Com-
17 pany—

18 “(i) utility facility, including such a
19 utility facility known on the date of enact-
20 ment of this title as—

21 “(I) ‘Gale-PS 512 transmission
22 lines or rights-of-way’; or

23 “(II) ‘Patio, Jack Ranch, and
24 Kenworth distribution circuits or
25 rights-of-way’; or

1 “(ii) energy transport facility in a
 2 right-of-way issued, granted, or permitted
 3 by the Secretary adjacent to a utility facil-
 4 ity referred to in clause (i).

5 “(2) PLANS FOR ACCESS.—The Secretary, in
 6 consultation with the Southern California Edison
 7 Company, shall publish plans for regular and emer-
 8 gency access by the Southern California Edison
 9 Company to the rights-of-way of the Company by
 10 the date that is 1 year after the later of—

11 “(A) the date of enactment of this title;
 12 and

13 “(B) the date of issuance of a new energy
 14 transport facility right-of-way within—

15 “(i) the El Mirage Off-Highway Vehi-
 16 cle Recreation Area;

17 “(ii) the Spangler Hills National Off-
 18 Highway Vehicle Recreation Area; or

19 “(iii) the Stoddard Valley National
 20 Off Highway Vehicle Recreation Area.

21 “(h) PACIFIC GAS AND ELECTRIC COMPANY UTILITY
 22 FACILITIES AND RIGHTS-OF-WAY.—

23 “(1) EFFECT OF TITLE.—Nothing in this
 24 title—

1 “(A) terminates any validly issued right-of-
2 way for the customary operation, maintenance,
3 upgrade, repair, relocation within an existing
4 right-of-way, replacement, or other authorized
5 activity (including the use of any mechanized
6 vehicle, helicopter, and other aerial device) in a
7 right-of-way issued, granted, or permitted to
8 Pacific Gas and Electric Company (including
9 any predecessor or successor in interest or as-
10 sign) that is located on land included in the
11 Spangler Hills National Off-Highway Vehicle
12 Recreation Area; or

13 “(B) prohibits the upgrading or replace-
14 ment of any—

15 “(i) utility facilities of the Pacific Gas
16 and Electric Company, including those
17 utility facilities known on the date of en-
18 actment of this title as—

19 “(I) ‘Gas Transmission Line 311
20 or rights-of-way’; or

21 “(II) ‘Gas Transmission Line
22 372 or rights-of-way’; or

23 “(ii) utility facilities of the Pacific
24 Gas and Electric Company in rights-of-way
25 issued, granted, or permitted by the Sec-

1 retary adjacent to a utility facility referred
2 to in clause (i).

3 “(2) PLANS FOR ACCESS.—Not later than 1
4 year after the date of enactment of this title or the
5 issuance of a new utility facility right-of-way within
6 the Spangler Hills National Off-Highway Vehicle
7 Recreation Area, whichever is later, the Secretary, in
8 consultation with the Pacific Gas and Electric Com-
9 pany, shall publish plans for regular and emergency
10 access by the Pacific Gas and Electric Company to
11 the rights-of-way of the Pacific Gas and Electric
12 Company.

13 **“TITLE XVII—ALABAMA HILLS**
14 **NATIONAL SCENIC AREA**

15 **“SEC. 1701. DEFINITIONS.**

16 “In this title:

17 “(1) MANAGEMENT PLAN.—The term ‘manage-
18 ment plan’ means the management plan for the Na-
19 tional Scenic Area developed under section 1703(a).

20 “(2) MAP.—The term ‘Map’ means the map en-
21 titled ‘Proposed Alabama Hills National Scenic
22 Area’ and dated September 8, 2014.

23 “(3) MOTORIZED VEHICLE.—The term ‘motor-
24 ized vehicle’ means a motorized or mechanized vehi-
25 cle and includes, when used by a utility, mechanized

115TH CONGRESS
1ST SESSION

H. R. 350

To exclude vehicles used solely for competition from certain provisions of
the Clean Air Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2017

Mr. MCHENRY (for himself, Mr. ABRAHAM, Mr. BOST, Mr. BUCSHON, Mr. BURGESS, Mr. CARTER of Georgia, Mr. CRAMER, Ms. FOXX, Mr. GOSAR, Mr. GRIFFITH, Mr. GROTHMAN, Mr. HUDSON, Mr. HUIZENGA, Mr. JONES, Mr. LAMALFA, Mr. LOUDERMILK, Mr. MOOLENAAR, Mr. MULLIN, Mr. PITTENGER, Mr. POSEY, Mr. ROE of Tennessee, Mr. ROGERS of Alabama, Mr. ROKITA, Mr. RYAN of Ohio, Mr. WALBERG, Mrs. WALORSKI, Mrs. MIMI WALTERS of California, Mr. WESTERMAN, Mr. MCCLINTOCK, Mr. ZELDIN, Mr. NOLAN, Mr. HOLDING, Mr. BROOKS of Alabama, Mr. COOK, Mr. EMMER, Mr. RENACCI, Mr. COOPER, Mr. CUELLAR, Mr. LONG, Mr. SENSENBRENNER, Mr. BRAT, Mrs. WAGNER, Mr. TIBERI, Ms. JENKINS of Kansas, and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To exclude vehicles used solely for competition from certain
provisions of the Clean Air Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Recognizing the Pro-
3 tection of Motorsports Act of 2017” or the “RPM Act of
4 2017”.

5 **SEC. 2. FINDINGS.**

6 The Congress finds that—

7 (1) at the time the Clean Air Act was written,
8 and each time the Clean Air Act has been amended,
9 the intent of Congress has been, and continues to
10 be, that vehicles manufactured for, modified for, or
11 utilized in organized motorized racing events would
12 not be encompassed by the Clean Air Act’s definition
13 of “motor vehicle”;

14 (2) when Congress sought to regulate nonroad
15 vehicles in 1990, it explicitly excluded from the defi-
16 nition of “nonroad vehicle” any vehicle used solely
17 for competition;

18 (3) despite the clear intent of Congress, the En-
19 vironmental Protection Agency has cited the Clean
20 Air Act as authority for regulating vehicles used
21 solely for competition; and

22 (4) the Environmental Protection Agency has
23 exceeded its statutory authority in its recent actions
24 to regulate vehicles used solely for competition.

1 **SEC. 3. EXCLUSION OF VEHICLES USED SOLELY FOR COM-**
2 **PETITION FROM THE ANTI-TAMPERING PRO-**
3 **VISIONS OF THE CLEAN AIR ACT.**

4 Section 203 of the Clean Air Act (42 U.S.C. 7522)
5 is amended by adding at the end of subsection (a) the fol-
6 lowing: “No action with respect to any device or element
7 of design referred to in paragraph (3) shall be treated as
8 a prohibited act under that paragraph if the action is for
9 the purpose of modifying a motor vehicle into a vehicle
10 to be used solely for competition.”.

11 **SEC. 4. EXCLUSION OF VEHICLES USED SOLELY FOR COM-**
12 **PETITION FROM THE DEFINITION OF MOTOR**
13 **VEHICLE IN THE CLEAN AIR ACT.**

14 Section 216 of the Clean Air Act (42 U.S.C. 7550)
15 is amended by striking “.” at the end of paragraph (2)
16 and inserting “and that is not a vehicle used solely for
17 competition, including any vehicle so used that was con-
18 verted from a motor vehicle.”.

19 **SEC. 5. IMPLEMENTATION.**

20 Not later than 12 months after the date of enactment
21 of this Act, the Administrator of the Environmental Pro-
22 tection Agency shall finalize any regulations necessary to
23 implement the amendments made by this Act.

○

115TH CONGRESS
1ST SESSION

H. R. 289

To authorize the Secretary of the Interior and the Secretary of Agriculture to issue permits for recreation services on lands managed by Federal agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2017

Mr. LAMALFA introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the Secretary of the Interior and the Secretary of Agriculture to issue permits for recreation services on lands managed by Federal agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINI-**
4 **TIONS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Guides and Outfitters Act” or the “GO Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

3 (c) DEFINITIONS.—In this Act:

4 (1) SECRETARY.—The term “Secretary”
 5 means—

6 (A) the Secretary of the Interior, with re-
 7 spect to a Federal land management agency
 8 (other than the Forest Service); and

9 (B) the Secretary of Agriculture, with re-
 10 spect to the Forest Service.

11 (2) SECRETARIES.—The term “Secretaries”
 12 means the Secretary of the Interior and the Sec-
 13 retary of Agriculture acting jointly.

14 **SEC. 2. SPECIAL RECREATION PERMIT AND FEE.**

15 Subsection (h) of section 803 of the Federal Lands
 16 Recreation Enhancement Act (16 U.S.C. 6802) is amend-
 17 ed to read as follows:

18 “(h) SPECIAL RECREATION PERMIT AND FEE.—

19 “(1) IN GENERAL.—The Secretary may—

20 “(A) issue a special recreation permit for
 21 Federal recreational lands and waters; and

22 “(B) charge a special recreation permit fee
 23 in connection with the issuance of the permit.

1 “(2) SPECIAL RECREATION PERMITS.—The
2 Secretary may issue special recreation permits in the
3 following circumstances:

4 “(A) For specialized individual and group
5 use of Federal facilities and Federal rec-
6 reational lands and waters, such as, but not
7 limited to, use of special areas or areas where
8 use is allocated, motorized recreational vehicle
9 use, and group activities or events.

10 “(B) To recreation service providers who
11 conduct outfitting, guiding, and other recre-
12 ation services on Federal recreational lands and
13 waters managed by the Forest Service, Bureau
14 of Land Management, Bureau of Reclamation,
15 or the United States Fish and Wildlife Service.

16 “(C) To recreation service providers who
17 conduct recreation or competitive events, which
18 may involve incidental sales on Federal rec-
19 reational lands and waters managed by the For-
20 est Service, Bureau of Land Management, Bu-
21 reau of Reclamation, or the United States Fish
22 and Wildlife Service.

23 “(3) REDUCTION IN FEDERAL COSTS.—To re-
24 duce Federal costs in administering this subsection,
25 the issuance of a new special recreation permit for

1 activities under paragraph (2) that have been con-
 2 sidered under previous analysis or that are similar
 3 to existing uses or are not inconsistent with ap-
 4 proved uses shall qualify for categorical exclusions
 5 under the National Environmental Policy Act of
 6 1969 (42 U.S.C. 4321 et seq.).”.

7 **SEC. 3. PERMIT ACROSS MULTIPLE JURISDICTIONS.**

8 (a) IN GENERAL.—In the case of an activity requir-
 9 ing permits pursuant to subsection (h) of section 803 of
 10 the Federal Lands Recreation Enhancement Act (16
 11 U.S.C. 6802) for use of lands managed by both the Forest
 12 Service and the Bureau of Land Management—

13 (1) the Secretaries may issue a joint permit
 14 based upon a single application to both agencies
 15 when issuance of a joint permit based upon a single
 16 application will lower processing and other adminis-
 17 tration costs for the permittee, provided that the
 18 permit applicant shall have the option to apply for
 19 separate permits rather than a joint permit; and

20 (2) the permit application required under clause
 21 (i) shall be—

22 (A) the application required by the lead
 23 agency; and

24 (B) submitted to the lead agency.

1 (b) REQUIREMENTS OF THE LEAD AGENCY.—The
2 lead agency for a permit under subsection (a) shall—

3 (1) coordinate with the associated agencies,
4 consistent with the authority of the Secretaries
5 under section 330 of the Department of the Interior
6 and Related Agencies Appropriations Act, 2001 (43
7 U.S.C. 1703), to develop and issue the single, joint
8 permit that covers the entirety of the trip;

9 (2) in processing the joint permit application,
10 incorporate the findings, interests, and needs of the
11 associated agencies, provided that such coordination
12 shall not be subject to cost recovery; and

13 (3) complete the permitting process within a
14 reasonable time after receiving the permit applica-
15 tion.

16 (c) EFFECT ON REGULATIONS.—Nothing in this sec-
17 tion shall alter, expand, or limit the applicability of any
18 Federal law (including regulations) to lands administered
19 by the relevant Federal agencies.

20 (d) DEFINITIONS.—In this section:

21 (1) ASSOCIATED AGENCY.—The term “associ-
22 ated agency” means an agency that manages the
23 land on which the trip of the special recreation per-
24 mit applicant will enter after leaving the land man-
25 aged by the lead agency.

1 (2) LEAD AGENCY.—The term “lead agency”
2 means the agency that manages the land on which
3 the trip of the special recreation permit applicant
4 will begin.

5 **SEC. 4. GUIDELINES AND PERMIT FEE CALCULATION.**

6 (a) GUIDELINES AND EXCLUSION OF CERTAIN REV-
7 ENUES.—The Secretary shall—

8 (1) publish guidelines in the Federal Register
9 for establishing recreation permit fees; and

10 (2) provide appropriate deductions from the fee
11 established under paragraph (1) for—

12 (A) revenue from goods, services, and ac-
13 tivities provided by a recreation service provider
14 outside Federal recreational lands and waters,
15 such as costs for transportation, lodging, and
16 other services before or after a trip; and

17 (B) fees to be paid by permit holder under
18 applicable law to provide services on other Fed-
19 eral lands, if separate permits are issued to
20 that permit holder for a single event.

21 (b) FEE CONDITIONS.—The fee charged by the Sec-
22 retary for a permit issued under section 803(h) of the
23 Federal Lands Recreation Enhancement Act (16 U.S.C.
24 6802(h)) shall not exceed 3 percent of the recreational
25 service provider’s annual gross revenue for activities au-

1 thorized by the permit on Federal lands, plus applicable
2 revenue additions, minus applicable revenue exclusions or
3 a similar flat per person fee.

4 (c) DISCLOSURE OF FEES.—A holder of a special
5 recreation permit may inform its customers of the various
6 fees charged by the Secretary under section 803(h) of the
7 Federal Lands Recreation Enhancement Act (16 U.S.C.
8 6802(h)).

9 **SEC. 5. USE OF PERMIT FEES FOR PERMIT ADMINISTRA-**
10 **TION.**

11 Revenues from special recreation permits issued to
12 recreation service providers under subparagraphs (B) and
13 (C) of section 803(h)(1) of the Federal Lands Recreation
14 Enhancement Act (16 U.S.C. 6802(h)(1)) shall be used—

15 (1) to partially offset the Secretary's direct cost
16 of administering the permits; and

17 (2) to improve and streamline the permitting
18 process.

19 **SEC. 6. ADJUSTMENT TO PERMIT USE REVIEWS.**

20 (a) IN GENERAL.—In reviewing and adjusting alloca-
21 tions of use for priority use permits for special uses of
22 Federal recreational lands and waters managed by the
23 Forest Service, and in renewing such permits, the Sec-
24 retary of Agriculture shall allocate to a permit holder the
25 highest amount of actual annual use over the reviewed pe-

1 riod plus 25 percent, capped at the amount of use allo-
2 cated when the permit was issued unless additional capac-
3 ity is available.

4 (b) WAIVER.—Use reviews under subsection (a) may
5 be waived for periods in which circumstances that pre-
6 vented use of assigned capacity, such as weather, fire, nat-
7 ural disasters, wildlife displacement, business interrup-
8 tions, and when allocations on permits include significant
9 shoulder seasons. The authorizing office may approve non-
10 use without reducing the number of service days assigned
11 to the permit in such circumstances at the request of the
12 permit holder. Approved non-use may be temporarily as-
13 signed to other qualified permit holders when conditions
14 warrant.

15 **SEC. 7. AUTHORIZATION OF TEMPORARY PERMITS FOR**
16 **NEW USES FOR THE FOREST SERVICE AND**
17 **BLM.**

18 Not later than 180 days after the date of the enact-
19 ment of this Act, the Secretary of Agriculture and the Sec-
20 retary of the Interior shall establish and implement a pro-
21 gram to authorize temporary permits for new recreational
22 uses of Federal recreational lands and waters managed by
23 the Forest Service or the Bureau of Land Management,
24 respectively, and to provide for the conversions of such
25 temporary permits to long-term permits after 2 years of

1 satisfactory operation. The issuance and conversion of
2 such permits shall be subject to subsection (h)(3) of sec-
3 tion 803 of the Federal Lands Recreation Enhancement
4 Act (16 U.S.C. 6802).

5 **SEC. 8. INDEMNIFICATION REQUIREMENTS.**

6 (a) INDEMNIFICATION.—A permit holder that is pro-
7 hibited by the State from providing indemnification to the
8 Federal Government shall be considered to be in compli-
9 ance with indemnification requirements of the Department
10 of the Interior and the Department of Agriculture if the
11 permit holder carries the required minimum amount of li-
12 ability insurance coverage or is self-insured for the same
13 minimum amount.

14 (b) EXCULPATORY AGREEMENTS.—The Secretary
15 shall not implement, administer or enforce any regulation
16 or policy prohibiting the use of exculpatory agreements be-
17 tween recreation service providers and their customers for
18 services provided under a special recreation permit when
19 such agreements are enforceable pursuant to the law of
20 the State in which the permitted services are provided.

21 **SEC. 9. STREAMLINING OF PERMITTING PROCESS.**

22 (a) REGULATIONS.—Not later than 180 days after
23 the date of the enactment of this Act, the Secretaries shall
24 revise part 251, subpart B, of title 36 Code of Federal
25 Regulations, and subpart 2932, of title 43, Code of Fed-

1 eral Regulations to streamline the processes for the
2 issuance and renewal of outfitter and guide special use
3 permits. Such amended regulations shall—

4 (1) shorten application processing times and
5 minimize application and administration costs; and

6 (2) provide for the use of programmatic envi-
7 ronmental assessments and categorical exclusions for
8 environmental reviews under the National Environ-
9 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
10 for the issuance or renewal of outfitter and guide
11 and similar recreation special use permits, to the
12 maximum extent allowable under applicable law, in-
13 cluding, but not limited to, use of a categorical ex-
14 clusion for the issuance of a new special recreation
15 permit for activities under paragraph (2)(B) of sub-
16 section (h) of section 803 of the Federal Lands
17 Recreation Enhancement Act (16 U.S.C. 6802) that
18 have been considered under previous analysis or that
19 are similar to existing uses or are not inconsistent
20 with approved uses.

21 (b) ONLINE APPLICATIONS.—To the maximum ex-
22 tent practicable, where feasible and efficient, the Secre-
23 taries shall make special recreation permit applications
24 available to be filled out and submitted online.

1 **SEC. 10. COST RECOVERY REFORM.**

2 (a) REGULATORY PROCESS.—Not later than 180
3 days after the date of enactment of this Act, the Secre-
4 taries shall revise section 251.58 of title 36, Code of Fed-
5 eral Regulations, and section 2932.31(e) and (f) of title
6 43, Code of Federal Regulations, to reduce costs and mini-
7 mize the burden of cost recovery on small businesses and
8 adverse impacts of cost recovery on jobs in the outfitting
9 and guiding industry and on rural economies provided,
10 however, that nothing in the revised regulations shall fur-
11 ther limit the Secretaries' authority to issue or renew
12 recreation special use permits.

13 (b) DE MINIMIS EXEMPTION.—

14 (1) COST RECOVERY LIMITATION.—Any regula-
15 tions issued by the Secretary of the Interior or the
16 Secretary of Agriculture to establish fees to recover
17 processing costs for recreation special use applica-
18 tions and monitoring costs for recreation special use
19 authorizations shall include an exemption providing
20 that at least the first 50 hours of work necessary in
21 any one year to process and/or monitor such an ap-
22 plication shall not be subject to cost recovery. The
23 application of a 50-hour credit per permit shall also
24 apply to any monitoring fees on a per annum basis
25 during the term of each permit.

1 (2) APPLICATION OF EXEMPTION.—An exemp-
2 tion under paragraph (1) shall apply to the proc-
3 essing of each recreation special use permit applica-
4 tion and monitoring of each recreation special use
5 authorization for which cost recovery is required, in-
6 cluding any application or authorization requiring
7 more than 50 hours (or such other greater number
8 of hours specified for exemption) to process or mon-
9 itor. In the event that the amount of work required
10 to process such an application or monitor such an
11 authorization exceeds the specified exemption, the
12 amount of work for which cost recovery is required
13 shall be reduced by the amount of the exemption.

14 (3) MULTIPLE APPLICATIONS.—In situations
15 involving multiple recreation special use applications
16 for similar services in the same unit or area that re-
17 quire more than 50 hours (or such other greater
18 number of hours specified for exemption) in the ag-
19 gregate to process, the Secretary shall, regardless of
20 whether the applications are solicited or unsolicited
21 and whether there is competitive interest—

22 (A) determine the share of the aggregate
23 amount to be allocated to each application, on
24 an equal or prorated basis, as appropriate; and

1 (B) for each application, apply a separate
2 exemption of up to 50 hours (or such other
3 greater number of hours specified for exemp-
4 tion) to the share allocated to such application.

5 (4) COST REDUCTION.—The agency processing
6 a recreation special use application shall utilize ex-
7 isting studies and analysis to the greatest extent
8 practicable in order to reduce the amount of work
9 and cost necessary to process the application.

10 (5) LIMITATION.—The Secretary of the Interior
11 and the Secretary of Agriculture may not recover as
12 processing costs for recreation special use applica-
13 tions and monitoring costs for recreation special use
14 authorizations any costs for consultations conducted
15 under section 7 of the Endangered Species Act of
16 1973 (16 U.S.C. 1536) or for biological monitoring
17 on Federal recreational lands and waters under such
18 Act for listed, proposed, or candidate species.

19 (6) WAIVER OF COST RECOVERY.—The Sec-
20 retary of the Interior and the Secretary of Agri-
21 culture may waive the recovery of costs for proc-
22 essing recreation special use permit applications and
23 renewals, on a categorical or case-by-case basis as
24 appropriate, if the Secretary determines that—

1 (A) such costs would impose a significant
2 economic burden on any small business or cat-
3 egory of small businesses;

4 (B) such cost recovery could threaten the
5 ability of an applicant or permittee to provide,
6 in a particular area, a particular outdoor rec-
7 reational activity that is consistent with the
8 public interest and with applicable resource
9 management plans; or

10 (C) prevailing economic conditions are un-
11 favorable, such as during economic recessions,
12 or when drought, fire, or other natural disasters
13 have depressed economic activity in the area of
14 operation.

15 **SEC. 11. EXTENSION OF FOREST SERVICE RECREATION**
16 **PRIORITY USE PERMITS.**

17 Where the holder of a special use permit for outfitting
18 and guiding that authorizes priority use has submitted a
19 request for renewal of such permit in accordance with ap-
20 plicable laws and regulations, the Secretary of Agriculture
21 shall have the authority to grant the holder one or more
22 extensions of the exiting permit for additional items not
23 to exceed 5 years in the aggregate, as necessary to allow
24 the Secretary to complete the renewal process and to avoid
25 the interruption of services under such permit. Before

1 granting an extension under this section, the Secretary
2 shall take all reasonable and appropriate steps to complete
3 the renewal process before the expiration of the special
4 use permit.

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